



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: August 11, 2022

TIME: 11:03 AM

WSR 22-17-049

Agency: Department of Retirement Systems

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: To ensure customers understand their distribution options from their defined contribution (Plan 3) or DCP accounts, with the addition of new options permitted by the federal SECURE and CARES Acts, and the removal of direct purchases of commercial annuities

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 415-111-310, 415-111-320, 415-501-485, 415-501-487, 415-501-488, 415-501-491, and 415-501-510

Suspended:

Statutory authority for adoption: RCW 41.50.050

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-14-101 on 7/5/2022 (date).

Describe any changes other than editing from proposed to adopted version: WAC 415-111-310 (6)(b) was removed.

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

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>7</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>7</u>	Repealed	___
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The number of sections adopted using:

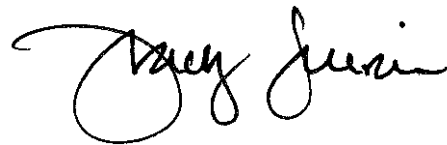
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: 8/11/2022

Name: Tracy Guerin

Title: Director

Signature:



WAC 415-111-310 Defined contribution account distribution (withdrawal). (1) **What are the requirements to 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); and
(c) The department's ((designated)) recordkeeper must receive a completed request for a defined contribution distribution from your account. See WAC 415-111-110.

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

(a) If you are terminally ill and eligible, the department's ((designated)) recordkeeper will arrange for payment to you within ((ten)) 10 workdays. To be eligible for 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) The department's ((designated)) recordkeeper must receive documentation verifying your terminal illness; and
(iv) The department's ((designated)) recordkeeper 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's ((designated)) recordkeeper will consider your request for a special exception payment and arrange for 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) The department's ((designated)) recordkeeper must receive documentation verifying and explaining your unforeseeable emergency. The recordkeeper will consider only unforeseeable emergencies. 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.

	Terminal Illness	Unforeseeable Emergency
Self-Directed	Up to 100% of the balance in the account within 10 days after approvals are completed.	Up to 100% of the balance in the account within 10 days after approvals are completed.
WSIB Total Allocation Portfolio (TAP)	Up to 100% of the balance in the account based on the most recent valuation within 10 days after approvals are completed.	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.

(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 prior to DRS being notified of you being rehired, 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.

(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 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 impact 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
<ul style="list-style-type: none"> - Entire account - Partial amount - Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below). 	<ul style="list-style-type: none"> - Entire account - Partial amount - Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).
Scheduled Payments	Scheduled Payments
<ul style="list-style-type: none"> - 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. 	<ul style="list-style-type: none"> - 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	- Purchase an annuity, administered by the state of Washington

Summary of Distribution Options	
SELF	WSIB
– Set up to pay benefits for – Your lifetime, or – Lifetimes of you and your joint annuitant.))	– 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)) <u>from</u> options above.	– Customized for your needs – Available ((for)) <u>from</u> options above.

(5) **Market fluctuations.** Your defined contribution account is subject to actual investment earnings (both gains and losses). These gains or losses impact 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.

(6) **Minimum required distribution.** No later than April 1st of the calendar year following the year in which you turn age ((seventy-two)) 72, you are required to withdraw a minimum amount from your defined contributions annually. (Prior to January 2020, required minimum distributions began at age ((seventy and one-half)) 70.5.) Subsequent withdrawals must be taken by December 31st of each year. If you are still working at age ((seventy-two)) 72, distribution is required to begin by April 1st the year following separation.

Calculation. Your required distribution is calculated each year based on your account balance as of December 31st of the prior year.

(7) See RCW 41.34.070 for additional information.

AMENDATORY SECTION (Amending WSR 13-18-034, filed 8/28/13, effective 10/1/13)

WAC 415-111-320 May I purchase a life annuity with my Plan 3 defined contribution account? Any time after you become eligible to withdraw funds from your Plan 3 account, you may use part or all of your funds to purchase a life annuity ((according to this section. To purchase a)) administered by the state of Washington. It is named the Total Allocation Portfolio (TAP) annuity ((that is administered by the state of Washington you must use funds that are in the Washington state investment board (WSIB) investment program. To purchase an annuity through an insurance company that is offered by the self-directed investment program, you must use funds that are in the self-directed investment program)), and it provides payments monthly.

(1) **What is a life annuity?** A life annuity is a contract that provides a guaranteed income for the rest of your life in exchange for a lump-sum dollar amount you pay up front. The contract specifies the amount you pay to purchase the annuity, the amount you will receive each month, and any other terms and conditions.

(a) **A single life annuity** is based on your lifetime. It provides guaranteed payments for as long as you live. The payments stop upon your death.

(b) **A joint life annuity** is based on two lifetimes, yours and another person that you choose (referred to as your joint annuitant). It provides guaranteed payments to you during your lifetime, and then, if your joint annuitant survives you, to your joint annuitant for the remainder of his/her lifetime. The payments stop when both you and your joint annuitant die.

~~((c) **A term-certain Single life annuity** is based on your lifetime. It provides you with regular payments for as long as you live. It also guarantees the payments for a specific, predetermined period of time (term-certain). If you die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.~~

~~(d) **A term-certain Joint life annuity** is based on two lifetimes, yours and your joint annuitant's. It provides regular payments for as long as you or your joint annuitant lives. It also guarantees those payments for a specific, predetermined period of time (term-certain). If you and your joint annuitant should both die before the specified period of time, payments will continue to your beneficiary for the balance of the specified period.~~

Example (term-certain Joint life annuity):

John purchased a 20-year term-certain joint life annuity. He received monthly payments until his death 10 years later. Upon John's death, Mary, John's joint annuitant, will receive payments for the duration of her life.

- If Mary lives for 5 years after John's death, upon her death the annuity will make payments to John's beneficiary for 5 years, the remainder of the 20-year term.
- If Mary lives for 5 years after John's death, upon her death the annuity will make payments to John's beneficiary for 5 years, the remainder of the 20-year term.

~~(2) **Are the life annuities offered by each investment program different?** The life annuities offered through the WSIB investment program and the self-directed investment program have distinct features and options. Each program may offer some or all of the annuities described in subsection (1) of this section. Minimum purchase price, payment frequency, survivorship percentages, length of term-certain annuities, and other optional features differ between programs as well.~~

~~(3)) (2) **How is the original purchase price of the ((life)) TAP annuity determined?** You ((will choose how much of your defined contribution funds to use as your original purchase price. The minimum purchase price depends on the type of annuity you purchase:)) decide how much of your defined contribution funds to use for the original purchase. The minimum purchase price for a TAP annuity is ((twenty-five thousand dollars and the minimum purchase price for an annuity through a self-directed investment program insurance company is five thousand dollars.~~

~~The minimum purchase price for a life annuity is subject to change.~~

~~(4)) \$25,000.~~

~~(3) **How are the monthly annuity payments calculated?** The amount of your monthly annuity payment is based on various actuarial assump-~~

tions, including without limitation, assumptions about life expectancy and anticipated investment returns. The amount of your monthly annuity payment will vary depending on:

- (a) The original purchase price;
- (b) Your age;
- (c) The age of your joint annuitant (if any); and
- (d) The survivorship percentage you select on a joint annuity (if any) (~~;~~ and
- (e) ~~Other features of your specific annuity, including, but not limited to, COLAs or refunds of undistributed balances upon your death).~~

~~((5))~~ **(4) May I cancel my purchase of an annuity contract?** ((Your contract will specify a period of time in which you can cancel your decision to purchase the annuity. Once)) You may cancel your annuity purchase during the rescission period specified in your annuity contract. After the rescission period expires, your decision is irrevocable.

~~((6))~~ **(5) Can the terms of the annuity be changed after the rescission period expires?** ((You may not make any changes after the rescission period unless your annuity contract explicitly states otherwise. Some contracts allow you to make changes in specific circumstances. For instance,)) You may make changes to ((a)) your TAP annuity ((purchased through the Washington state investment board investment program)) only as follows:

(a) If you name someone other than your spouse as the joint annuitant, you may convert to a single life annuity at any time after your payments begin. This option may only be used once and is irrevocable.

(b) If you marry after purchasing a single life annuity, you may convert to a joint life annuity and name your new spouse as joint annuitant, provided that:

(i) Your monthly annuity payment is not subject to property division pursuant to a dissolution order (definition of dissolution order in RCW 41.50.500 includes orders of legal separation);

(ii) The selection is made during a one-year window on or after the date of the first anniversary and before the second anniversary of your marriage; and

(iii) You provide satisfactory proof of your new marriage and your new spouse's birth date.

~~((7))~~ **(6) What are the tax consequences of a life annuity?**

(a) You, your joint annuitant or your beneficiary may be liable for federal and/or state taxes on payments from your annuity in the year in which they are received. You will receive an annual statement indicating the taxable portion of your annuity payments.

(b) For a TAP annuity, if you do not submit a tax withholding Form W-4P (~~to the department~~) before your first payment, taxes will be withheld according to Internal Revenue Service requirements (~~, using a filing status of married with three exemptions~~) and defaults.

(c) The department does not:

(i) Guarantee that payments should or should not be designated as exempt from federal income tax;

(ii) Guarantee that it was correct in withholding or not withholding federal taxes from benefit payments to you;

(iii) Withhold any amounts for state taxes or liabilities from your payments;

(iv) Represent or guarantee any particular federal or state income, payroll, personal property or other tax consequence because of

the department's determination of the taxable status of a distribution; or

~~((iv))~~ (v) Assume any liability for your compliance with the Internal Revenue Code.

~~((8))~~ (7) **How do I purchase a ~~((life))~~ TAP annuity?** ~~((a))~~ The forms required to purchase an annuity and the applicable directions are available on the department's website or upon request from the department, and include:

~~(i)~~ Plan 3 Request for Payment of Defined Contributions Funds Form;

~~(ii)~~ Plan 3 Annuity Payment Request Form;

~~(iii))~~ Complete the application, and include:

(a) Spousal consent form, if married and not providing a survivorship option for your spouse;

~~((iv))~~ (b) Proof of your birth date;

~~((v))~~ (c) Proof of your joint annuitant's birth date, if applicable; and

~~((vi))~~ (d) Tax withholding Form W-4P.

~~((b))~~ You may transfer funds from one investment program to the other in order to have sufficient funds in the appropriate investment program to cover the cost of the annuity purchase.

~~(9))~~ (8) **What if there is an error in my contract?** Carefully examine your contract upon receipt. If there is an error or omission, you must report the error or omission immediately according to the instructions in your contract.

WAC 415-501-485 How do I obtain a distribution? Distribution from the plan is governed by Internal Revenue Code Sections 401 (a) (9) and 457(d); the treasury regulations interpreting these sections; and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are available from the department's ~~((designated record keeper))~~ recordkeeper.

(1) **Date of distribution.** You may choose the date on which to begin distribution from your deferred compensation account, subject to the requirements in (a) through (c) of this subsection.

(a) **Earliest date.** You may not begin distribution prior to your termination of employment, with the following exceptions:

(i) A distribution for an unforeseeable emergency under WAC 415-501-510;

(ii) A voluntary in-service distribution under subsection (4) of this section;

(iii) A distribution from funds that were rolled into the deferred compensation account (may be subject to tax penalties); or

(iv) An in-service distribution in any calendar year in which you will reach age ~~((seventy and one-half))~~ 70.5 or more.

(b) **Latest date.** You must begin distribution on or before April 1st of the calendar year following the latter of:

(i) The calendar year in which you reach age ~~((seventy-two))~~ 72;

or

(ii) The calendar year in which you retire.

(c) If you do not choose a distribution date, the department will begin distribution according to the minimum distribution requirements in IRC Section 401 (a) (9).

(2) **Method of distribution.** Payment options include a lump sum payment, partial lump sum payment, or installment payments ~~((, or an annuity purchase))~~.

Beginning at age ~~((seventy-two))~~ 72 or when you terminate employment, whichever comes later, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a) (9).

(3) **Voluntary in-service distribution at any age.** You may choose to withdraw the total amount payable to you under the plan while you are employed if the following three requirements are met:

(a) Your entire account value does not exceed ~~((five thousand dollars))~~ \$5,000;

(b) You have not previously received an in-service distribution; and

(c) You have made no deferrals during the two-year period ending on the date of the in-service distribution.

(4) **Unforeseeable emergencies.** See WAC 415-501-510.

(5) **Rehire.** If you submit an immediate lump sum or partial distribution request and the request is received in good order prior to being rehired, your distribution will be processed even if you become rehired with a DCP employer. If you are receiving installment payments or have requested to receive installment payments and then return to employment with a DCP employer, your payments from your DCP account will cease. You may request a distribution when you are again eligible consistent with these rules.

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-487 If my beneficiary dies while receiving my accumulated deferrals, who will get the remainder of the account? (1) If your beneficiary dies while receiving distributions, any remaining balance will be paid according to ~~((the))~~ their beneficiary election on file (see WAC 415-501-480).

~~((1))~~ (2) If there is no beneficiary election on file, the remaining balance will be paid to your beneficiary's estate.

~~((2) If your beneficiary is being paid under an annuity you purchased, distribution will be governed by the terms of the annuity contract.)~~

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-488 How will the account be distributed if my beneficiary is my spouse? If you die with money in your account and your beneficiary is your spouse, an account will be established in your spouse's name.

(1) The distribution options will be provided to your spouse when DCP is notified of your death. Your spouse may choose ~~((any))~~ the method of distribution ~~((annuity, periodic))~~ installment payments ~~((,))~~ or lump sum) ~~((that provides at least the))~~ and may be subject to a required minimum distribution each calendar year until your account is exhausted.

(a) The department must receive your spouse's election at least ~~((thirty))~~ 30 days before distribution is to begin.

(b) Receiving more than the required minimum distribution during one calendar year does not excuse your spouse from taking the required minimum in any calendar year to which the required minimum applies.

(2) Required minimum distribution. ~~((a) First required distribution if you die before your "required beginning date" (see WAC 415-501-485 (1)(b)). Beginning in the later of:~~

~~(i) The calendar year following the calendar year of your death;~~
or

~~(ii) The calendar year you would have attained age seventy-two, your spouse must receive the required minimum distribution. This distribution must be taken by December 31st of the applicable calendar year. (Prior to January 2020, the age for required minimum distributions was seventy and one-half.)~~

~~(b) First required distribution if you die after your "required beginning date" (see WAC 415-501-485 (1)(b)), your spouse must receive the required minimum distribution during the calendar year following the year of your death. The distribution must be taken by December 31st of the applicable calendar year.~~

~~(c) Your spouse must receive the required minimum distribution during each subsequent calendar year until the account is exhausted.~~

~~(d))~~ The required minimum distribution in each of the relevant calendar years is based on life expectancies set forth in the treasury regulations.

(3) If your spouse dies before the entire account is exhausted, the remainder of the account will be paid according to ~~((the))~~ their beneficiary election(s) on file (see WAC 415-501-480). If there is no beneficiary election on file, the remaining balance will be paid to their estate.

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-491 How will the account be distributed if my beneficiary is not my spouse? If you die with money in your account and your beneficiary is an individual other than your spouse, an account will be established in your beneficiary's name.

(1) For rules governing distribution to an entity other than an individual (e.g., a trust, estate, or organization), see WAC 415-501-493.

(2) The distribution options will be provided to your beneficiary when DCP is notified of your death ~~((Your beneficiary may choose any method of distribution (annuity, periodic payments, or lump sum) that provides at least the required minimum distribution each calendar year until your account is exhausted))~~, and will be based on treasury rules in effect at that time.

~~((a))~~ (3) The department must receive your beneficiary's election at least ~~((thirty))~~ 30 days before distribution is to begin.

~~((b))~~ Receiving more than the required minimum distribution during one calendar year does not excuse your beneficiary from taking the required minimum in any calendar year to which the required minimum applies.

~~(3) Required minimum distribution.~~

~~(a) First required distribution if you die before your "required beginning date" (see WAC 415-501-485 (1)(b)), your beneficiary may choose to receive the required minimum distribution under either the "life expectancy rule" or the "five year rule." Your beneficiary must elect one of the two rules at least thirty days before distribution would be required to begin under the life expectancy rule. If a timely election is not received, your beneficiary will be required to receive the required minimum distribution under the "five year rule."~~

~~(i) Life expectancy rule. Distribution under this rule allows your beneficiary to spread distribution over their life expectancy. Beginning in the calendar year following the calendar year of your death, your beneficiary must receive a required minimum distribution. This distribution must be taken by December 31st of the calendar year.~~

~~(ii) Five year rule. Under this rule, the first mandatory distribution is later than under the life expectancy rule. However, the beneficiary's entire account must be distributed on or before December 31st of the fifth calendar year following the calendar year of your death.~~

~~(b) First required distribution if you die after your "required beginning date" (see WAC 415-501-485 (1)(b)), your beneficiary must receive a required minimum distribution during the calendar year following the year of your death. The distribution must be taken by December 31st of the applicable calendar year.~~

~~(c) Your beneficiary must receive a required minimum distribution during each subsequent calendar year until the account is exhausted.~~

~~(d) The required minimum distribution in each of the relevant calendar years is based on life expectancies set forth in the treasury regulations.)~~

(4) If your beneficiary dies before the entire account is exhausted, the remainder of the account will be paid according to ~~((the))~~ their beneficiary election(s) on file (see WAC 415-501-480). If there is no beneficiary election on file, the remaining balance will be paid to their estate.

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-510 May I withdraw some or all of my accumulated deferrals in the event of an unforeseeable emergency? (1) Notwithstanding any other provisions in this chapter, you may request all or a portion of your accumulated deferrals ~~((in the event of an unforeseeable emergency. Distribution will be made within sixty days following the department's approval of your request))~~ if:

(a) You are terminally ill. The department's recordkeeper will arrange for payment to you within 10 business days following application. To be eligible, the department's recordkeeper must receive documentation verifying your terminal illness along with your application.

(b) You have a qualifying unforeseeable emergency. The department's recordkeeper will distribute payment to you typically within 60 business days following application. To be eligible, the department's recordkeeper must receive documentation verifying your unforeseeable emergency, along with your application. The amount paid will be limited strictly to that amount reasonably necessary to satisfy the emergency need.

(2) For purposes of this plan, an unforeseeable emergency is severe financial hardship resulting from:

(a) A personal illness or accident or the illness or injury of a spouse or dependent who meets the definition in Section 152(a) of the Internal Revenue Code;

(b) Loss of your property due to casualty, including the need to rebuild a home following damage not otherwise covered by homeowner's insurance, e.g., as a result of natural disaster; or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control, such as:

(i) The imminent foreclosure of or eviction from your primary residence due to circumstances that were beyond your control;

(ii) The need to pay medical expenses, including nonrefundable deductibles as well as the cost of prescription drug medication; or

(iii) The need to pay funeral expenses of a participant's or beneficiary's spouse or dependent (as defined in Section 152(a) of the Internal Revenue Code without regard to Sections 152 (b)(1), (2), and (d)(1)).

(3) The circumstances that constitute an unforeseeable emergency depend upon the facts of each case, but, in no case will the department approve a distribution request if the financial hardship is or may be relieved:

(a) Through reimbursement or compensation by insurance or otherwise; or

(b) By liquidation of your assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(c) By cessation of deferrals under the plan.

(4) Examples: The following types of occurrences are not considered unforeseeable emergencies: Sending your child to college or purchasing a home.

(5) If the department denies your request for distribution, you may request a review of that decision according to the provisions of WAC 415-08-015.