

WAC 296-128-730 Frontloading. (1) An employer may, but is not required to, frontload paid sick leave to an employee in advance of accrual. An employer that allows an employee to go into "negative balances" of paid sick leave (i.e., where paid sick leave has not accrued and the employer allows its use) is frontloading paid sick leave to the employee.

(2) If an employer frontloads paid sick leave, the employer must ensure that such frontloaded paid sick leave complies with the provisions of RCW 49.46.180, 49.46.200, and 49.46.210, and all applicable rules.

(3) If an employer frontloads paid sick leave, the employer must do so by using a reasonable calculation, consistent with the accrual requirement set forth under RCW 49.46.210 (1)(a), to determine the amount of paid sick leave the employee would be projected to accrue during the period of time for which paid sick leave is being frontloaded.

(a) If the employer calculates and frontloads, and an employee subsequently uses, an amount of paid sick leave which exceeds the paid sick leave the employee would have otherwise accrued absent frontloading, the employer shall not seek reimbursement from the employee for such paid sick leave used during the course of ongoing employment.

(b) If an employer frontloads paid sick leave to an employee, but such frontloaded paid sick leave is less than the amount the employee was entitled to accrue under RCW 49.46.210 (1)(a), the employer must make such additional amounts of paid sick leave available for use by the employee as soon as practicable, but no later than 30 days after identifying the discrepancy.

(4) The employer must have a written policy or a collective bargaining agreement which addresses the requirements for use of frontloaded paid sick leave. An employer must notify employees of such policy or agreement prior to frontloading an employee paid sick leave, and must make this information readily available to all employees.

(5) An employer may not make a deduction from an employee's final wages for frontloaded paid sick leave used prior to the accrual rate required by RCW 49.46.210 (1)(a), unless there is a specific agreement in place with the employee allowing for such a deduction. Such deductions must also meet the requirements set forth in RCW 49.48.010 and WAC 296-126-025.

(6) If an employer frontloads paid sick leave to a construction worker under RCW 49.46.210 (1)(1) (effective January 1, 2024) and the construction worker separates from employment, the employer must pay the balance of frontloaded leave in the construction worker's bank unless the employer can determine the amount of unused paid sick leave the employee accrued during the period of time for which paid sick leave was frontloaded using a reasonable calculation consistent with the accrual requirement set forth under RCW 49.46.210 (1)(a).

[Statutory Authority: Chapter 49.46 RCW. WSR 23-24-044, § 296-128-730, filed 11/30/23, effective 1/1/24. Statutory Authority: RCW 49.46.810. WSR 17-21-092, § 296-128-730, filed 10/17/17, effective 1/1/18.]