

**WAC 296-128-760 Construction workers covered by a collective bargaining agreement under RCW 49.46.180.** (1) **Payment before usage.** RCW 49.46.180 allows a construction worker covered by a collective bargaining agreement to receive payment for paid sick leave before usage under the terms of a collective bargaining agreement if:

(a) The leave itself becomes available for protected use by at least the 90th calendar day of employment as established in RCW 49.46.210 (1)(d);

(b) The union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and WAC 192-210-110;

(c) The collective bargaining agreement provides equivalent sick leave provisions that meet the requirements of RCW 49.46.200 through 49.46.830, and all applicable rules; and

(d) The requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership.

(2) **Deductions for paid sick leave payments.** An employer may not make a deduction from paid sick leave payment to a construction worker covered by a collective bargaining agreement before usage, unless such deduction meets the requirements set forth in RCW 49.48.010 and WAC 296-126-025.

(3) **Reinstatement of sick leave hours upon rehire.** If a construction worker covered by a collective bargaining agreement is rehired within 12 months after separation from employment by the same employer, whether at the same or a different business location, was paid their paid sick leave before usage under RCW 49.46.180, and still had protected accrued, unused sick leave available for use, the accrued, unused sick leave must be reinstated upon rehire. Any portion of sick leave already paid during a previous period of employment does not have to be paid again when used during reemployment.

(4) **Use of sick leave hours upon rehire.** How to treat prior days of employment for access to paid sick leave.

(a) If a construction worker covered by a collective bargaining agreement separates from employment, is rehired within 12 months of separation, whether at the same or a different business location of the employer, was paid their paid sick leave before usage under RCW 49.46.180 and has reached the 90th calendar day of employment prior to separation, the construction worker covered by a collective bargaining agreement is eligible to use accrued sick leave immediately upon rehire.

(b) If a construction worker covered by a collective bargaining agreement separates from employment, is rehired within 12 months of separation, whether at the same or a different business location of the employer, was paid their paid sick leave before usage under RCW 49.46.180, and did not reach the 90th calendar day of employment prior to separation, the previous period of employment must be counted for purposes of determining the date upon which they are entitled to use sick leave.

(5) **Exceptions to subsections (3) and (4) of this section.** If a construction worker covered by a collective bargaining agreement separates from employment, is not rehired within 12 months of separation by the same employer, whether at the same or a different business location, the employer is not required to meet standards in subsection (3) or (4) of this section.

(6) **Notification upon rehire.** Upon rehire, an employer must provide notification to the construction worker covered by a collective bargaining agreement of the amount of accrued, unused paid sick leave available for use by the employee, including sick leave paid before usage.

[Statutory Authority: Chapter 49.46 RCW. WSR 23-24-044, § 296-128-760, filed 11/30/23, effective 1/1/24. Statutory Authority: RCW 49.46.810. WSR 17-21-092, § 296-128-760, filed 10/17/17, effective 1/1/18.]