



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 06, 2021

TIME: 7:52 AM

WSR 21-08-068

Agency: Office of the Insurance Commissioner

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-04-038 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Implementation credits: Specifying health carriers as a permissible entity in WAC 284-30-595 **Insurance Commissioner Matter R 2021-01**

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 13, 2021	10:00am	Due to the COVID-19 public health emergency, this hearing will be held via Zoom.	Remote access information for public testimony will be made available at the webpage linked here: https://www.insurance.wa.gov/implementation-credits-specifying-health-carriers-permissible-entity-wac-284-30-595-r-2021-01

Date of intended adoption: May 14, 2021_ (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: David Forte
Address: PO Box 40260, Olympia, WA 98504-0260
Email: rulescoordinator@oic.wa.gov
Fax: 360-586-3109
Other:
By (date)

Assistance for persons with disabilities:

Contact Melanie Watness
Phone: 360-725-7013
Fax: 360-586-2023
TTY: 360-586-0241
Email: MelanieW@oic.wa.gov
Other:
By (date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Commissioner proposes amending one current regulation, WAC 284-30-595, to specify that health carriers are a permissible entity to use implementation credits. The anticipated effect of the proposed rules is to provide reference and guidance to insurers and health carriers implement the legislative amendments made to RCWs 48.30.140 and 48.30.150 through passage of SHB 1075 (2019).

Reasons supporting proposal: The Legislature passed SHB 1075 during the 2019 legislative session. The bill established that the Insurance Code's prohibition on offering rebates or inducements does not prohibit an insurer and health carrier from issuing payment to offset documented expenses incurred by a group policy holder in changing coverage from one insurer to another. Insurers and Health Carriers are not required to offer implementation credits, but when they choose to, the OIC has developed rules to provide guidance for companies to use and apply them.

Statutory authority for adoption: RCWs 48.02.060, 48.44.050 and 48.46.200.

Statute being implemented: RCW 48.30.140, 48.30.150

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	David Forte	PO Box 40260, Olympia, WA 98504-0260	360-725-7042
Implementation:	Melanie Anderson	PO Box 40260, Olympia, WA 98504-0260	360-725-7000
Enforcement:	Toni Hood	PO Box 40260, Olympia, WA 98504-0260	360-725-7000

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: David Forte
Address: PO Box 40260, Olympia, WA 98504-0260
Phone: 360-725-7042
Fax: (360) 586-3109
TTY:
Email: davidf@oic.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.020.

Explanation of exemptions, if necessary: The domestic health carriers that are affected by this rule are large, interstate companies and are not small businesses as defined in RCW 19.85.020(3).

Direct Health and Medical Insurance Carriers in Washington State employ on average 6,777 individuals annually throughout the industry. Considering there are on average 58 Direct Health and Medical Insurance Carrier firms operating annually in Washington, the mean number of employees per firm is 118 (6777/58), well above the small business threshold as defined by RCW 19.85.020(3). The figures used for this calculation are drawn from the 2020 Washington State Employment Security Department's Quarterly Census of Employment and Wages.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: April 6, 2021	Signature: 
Name: Mike Kreidler	
Title: Insurance Commissioner	

WAC 284-30-595 Unfair practices regarding documented expenses for implementation credits. Under RCW 48.30.140 and 48.30.150, an insurer or health carrier may issue payment to offset a documented expense that is incurred by a group policyholder (~~((while transferring from one policy to another policy))~~) in changing coverages from one insurer or health carrier to another provided that the insurer or health carrier maintains evidence of the documented expense for three years from the date of the expense. An insurer or health carrier will describe in the policy or in any such filing with the commissioner that the payment made to the group policyholder will not exceed the amount of the documented expenses.

(1) The failure to maintain and document an expense incurred by a group policyholder constitutes an unfair trade practice and is a violation of this chapter.

(2) Upon the commissioner's request, the insurer or health carrier must provide proof of a documented expense in the form of paper or electronic copy.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Health carrier" has the same meaning as in RCW 48.43.005.

(b) "Insurer" has the same meaning as in RCW 48.01.050.