

**WSR 21-13-137**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed June 22, 2021, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-06-089.

Title of Rule and Other Identifying Information: Outpatient hospitals (medical aid rules), WAC 296-23A-0700 What is the "ambulatory payment classification" (APC) payment system? and 296-23A-0740 How does the department calculate payments for covered outpatient services through the outpatient prospective payment system (OPPS)?

Hearing Location(s): On July 29, 2021, at 1:30 p.m., virtual and telephonic hearing only. To join Zoom meeting, please connect on your computer or mobile app <https://us02web.zoom.us/j/82544602841>, Meeting ID 825 4460 2841, Passcode Hearing#12. One tap mobile +12532158782,,82544602841#,,,,\*4901623718# US (Tacoma), +14086380968,,82544602841#,,,,\*4901623718# US (San Jose), or call in (audio only), Dial by your location +1 253 215 8782 US (Tacoma), Meeting ID 825 4460 2841, Passcode 4901623718. Find your local number <https://us02web.zoom.us/j/82544602841>. Audio/visual Zoom meeting starts at 1:30 p.m. and will continue until all oral comments are received.

Date of Intended Adoption: August 31, 2021.

Submit Written Comments to: Dee Hahn, Department of Labor and Industries (L&I), Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, email [Dee.Hahn@lni.wa.gov](mailto:Dee.Hahn@lni.wa.gov), fax 360-902-4249, by 5:00 p.m. on July 29, 2021.

Assistance for Persons with Disabilities: Contact Dee Hahn, phone 360-902-6828, fax 360-902-4249, email [Dee.Hahn@lni.wa.gov](mailto:Dee.Hahn@lni.wa.gov), by July 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed language will clarify the outpatient hospital payment process used by L&I and remove any potential conflict between the two WAC that set the payment policies for outpatient services. The effect will be to help our providers gain a clear understanding of our payment policies.

Reasons Supporting Proposal: The proposed language clarifies parts of our hospital outpatient WAC that a provider had problems understanding. By adopting the proposed language, we are making ourselves more transparent to the provider community.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: RCW 51.36.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Dee Hahn, Tumwater, 360-902-6828; Implementation and Enforcement: Vickie Kennedy, Tumwater, 360-902-4997.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Dee Hahn, L&I, Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, phone 360-902-6828, fax 360-902-4249, email [Dee.Hahn@lni.wa.gov](mailto:Dee.Hahn@lni.wa.gov).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how

costs were calculated. There is no cost associated with the rule. The rule is being updated to provide clarity to health care providers who provide services to injured workers and seek payment from L&I what system and billing policies are used by L&I. The proposed changes state in better terms the current standards used by L&I for reimbursing health care providers. While a provider may qualify as a small business under chapter 19.85 RCW the compliance with this section of law is only if that provider decides to provide services to injured workers.

June 22, 2021  
Joel Sacks  
Director

## OTS-2999.2

AMENDATORY SECTION (Amending WSR 01-24-045, filed 11/29/01, effective 1/1/02)

**WAC 296-23A-0700 What is the "ambulatory payment classification" (APC) payment system?** The APC outpatient prospective payment system (OPPS) is a reimbursement method that categorizes outpatient visits into groups according to the clinical characteristics, the typical resource use, and the costs associated with the diagnoses and the procedures performed. The groups are called Ambulatory Payment Classifications (APCs). (~~The department uses a modified version of the Centers for Medicare and Medicaid Services' (CMS) Prospective Payment System for Hospital Outpatient Department Services~~) Unless otherwise stated in departmental payment policies, the department follows billing policies used by the Centers for Medicare and Medicaid Services (CMS) for the hospital outpatient prospective payment system to pay some hospitals for covered outpatient services provided to injured workers. The department will utilize CMS' current outpatient code editor to categorize outpatient visits.

The payment system methodology uses CMS' outpatient prospective payment system's relative weight factor for each APC group and a blend of statewide and hospital-specific rates for each APC.

For a complete description of CMS' Prospective Payment System for Hospital Outpatient Department Services see 42 C.F.R., Chapter IV, Part 419, et al.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.36.080, 51.36.085. WSR 01-24-045, § 296-23A-0700, filed 11/29/01, effective 1/1/02.]

AMENDATORY SECTION (Amending WSR 01-24-045, filed 11/29/01, effective 1/1/02)

**WAC 296-23A-0740 How does the department calculate payments for covered outpatient services through the outpatient prospective payment system (OPPS)?** (1) Billed services that are reimbursed by the OPPS

are grouped into one or more APCs using the outpatient code editor software.

(2) Additional payment may be made for services classified by CMS as transitional pass-through.

(3) Incidental services are grouped within an APC and are not paid separately.

(4) The OPSS APC payment method uses an APC relative weight for each classification group (APC) and the current hospital-specific blended rate to determine the APC payment for an individual service.

(5) For each additional APC listed on a single claim for services, the payment is calculated with the same formula and then discounted. L&I follows all discounting policies used by CMS for the Medicare Prospective Payment System for Hospital Outpatient Department Services.

(6) APC payment for each APC = (APC relative weight x hospital-specific blended rate) \* discount factor (if applicable) x units (if applicable).

(7) The total payment on an APC claim is determined mathematically as follows:

(a) Sum of APC payments for each APC +

(b) Additional payment for each transitional pass-through (if applicable) +

(c) Additional outlier payment (if applicable).

(8) ~~((L&I follows all billing policies used by CMS for the Medicare Prospective Payment System for Hospital Outpatient Department Services))~~ Unless otherwise indicated in departmental payment policies, the department follows billing policies used by the Centers for Medicare and Medicaid Services (CMS) for the hospital outpatient prospective pricing system with respect to:

(a) Billing of units of service;

(b) Outlier claims;

(c) Use of modifiers;

(d) Distinguishing between single and multiple visits during a span of time and reporting a single visit on one claim, but multiple visits with unrelated medical conditions on multiple claims; and

(e) For paying terminated procedures based on services actually provided and documented in the medical record, and properly indicated by the hospital through the CPT codes and modifiers submitted on the claim.

[Statutory Authority: RCW 51.04.020, 51.04.030, 51.36.080, 51.36.085. WSR 01-24-045, § 296-23A-0740, filed 11/29/01, effective 1/1/02.]