

WSR 06-07-023
EXPEDITED RULES
DEPARTMENT OF CORRECTIONS

[Filed March 7, 2006, 8:56 a.m.]

Title of Rule and Other Identifying Information: WAC 137-08-180 Records index, amending the rule to provide information on how to access the department's records index.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO John Nispel, Department of Corrections, P.O. Box 41114, Olympia, WA 98504-1114, AND RECEIVED BY May 22, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department previously did not maintain a record index due to the administrative burden. The department now maintains such an index.

Reasons Supporting Proposal: To comply with state law requiring that a record index be maintained.

Statutory Authority for Adoption: RCW 72.01.090.

Statute Being Implemented: RCW 42.56.070(3).

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

Name of Proponent: Barbara Parry, public disclosure unit, department of corrections, governmental.

Name of Agency Personnel Responsible for Drafting: John Nispel, P.O. Box 41114, Olympia, WA 98504-1114, (360) 725-8365; Implementation and Enforcement: Barbara Parry, (360) 725-8851.

March 3, 2006

H. W. Clarke
 Secretary

AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

WAC 137-08-180 Records index. ~~((1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies, and other materials.~~

~~((2) The department will make available for public disclosure all indices which may at a future time be developed for agency use.))~~ The record index may be accessed on the department's web site in the public disclosure section at: <http://www.doc.wa.gov/PublicDisclosure/PublicDisclosure.htm>.

WSR 06-07-042
EXPEDITED RULES
HOME CARE
QUALITY AUTHORITY

[Filed March 8, 2006, 4:43 p.m.]

Title of Rule and Other Identifying Information: The authority is proposing an amendment to chapter 257-01 WAC, Authority organization.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Sherri Wills-Green, Home Care Quality Authority, P.O. Box 40940, Olympia, WA 98504, or deliver to 640 Woodland Square Loop S.E., Lacey, WA 98504, e-mail swills-green@hcqa.wa.gov, fax (360) 407-0304, AND RECEIVED BY May 22, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The change in WAC 257-10-040 is to amend language to reflect the change in frequency of HCQA board meetings.

Reasons Supporting Proposal: The HCQA board no longer meets on a monthly basis. HCQA scheduled board meetings will be specified in the Washington State Register.

Statutory Authority for Adoption: RCW 74.39A.280(3), 74.39A.230 (1) and (2).

Statute Being Implemented: RCW 74.39A.230.

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

Name of Proponent: Home care quality authority, governmental.

Name of Agency Personnel Responsible for Drafting: Sherri Wills-Green, 640 Woodland Square Loop, Olympia, WA 98504, (360) 725-2520; Implementation and Enforcement: Mindy Schaffner, 640 Woodland Square Loop, Olympia, WA 98504, (360) 725-2635.

March 8, 2006

Mindy Schaffner
 Executive Director

AMENDATORY SECTION (Amending WSR 04-20-110, filed 10/6/04, effective 11/6/04)

WAC 257-01-040 Board meetings. Meetings of the authority shall normally be held ~~((monthly))~~ at the date, time, and place to be set by the board and as published in the Washington state register. Additional public meetings necessary to discharge the business of the authority may be called from time to time by the chair or by a quorum of the board.

All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW). A simple majority of the board constitutes a quorum. Any matter coming before the board may be decided by a majority vote of those

members present and voting. Minutes shall be taken at all meetings.

Written communications intended for board consideration or action shall be filed with the authority's administrative office.

WSR 06-07-130
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

(Board of Boiler Rules)

[Filed March 21, 2006, 8:43 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-09 WAC, Practice and procedure—Board of boiler rules.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Sally Elliott, Legislative and Rules Manager, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, AND RECEIVED BY May 22, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will repeal chapter 296-09 WAC, Practice and procedure—Board of boiler rules. There are no anticipated effects.

Reasons Supporting Proposal: To promote more efficient government, the department is engaged in an ongoing review of its rules and policies. This repeal will eliminate a group of rules that is unused and nonessential to department and public business.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Statute Being Implemented: Chapter 70.79 RCW.

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

Name of Proponent: Board of boiler rules (department of labor and industries), governmental.

Name of Agency Personnel Responsible for Drafting: Board of Boiler Rules, Tumwater, Washington, (360) 902-5270; Implementation and Enforcement: Linda Williamson, Tumwater, Washington, (360) 902-5270.

March 21, 2006

Craig Hopkins, Chair
 Board of Boiler Rules

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 296-09-010 Appearance and practice before agency—Who may appear.
- WAC 296-09-020 Appearance and practice before agency—Appearance in certain proceedings may be limited to attorneys.
- WAC 296-09-030 Appearance and practice before agency—Solicitation of business unethical.
- WAC 296-09-040 Appearance and practice before agency—Standards of ethical conduct.
- WAC 296-09-050 Appearance and practice before agency—Appearance of former employee of board or former member of attorney general's staff.
- WAC 296-09-060 Appearance and practice before agency—Former employee as expert witness.
- WAC 296-09-070 Computation of time.
- WAC 296-09-080 Notice and opportunity for hearing in contested cases.
- WAC 296-09-090 Service of process—By whom served.
- WAC 296-09-100 Service of process—Upon whom served.
- WAC 296-09-110 Service of process—Service upon parties.
- WAC 296-09-120 Service of process—Method of service.
- WAC 296-09-130 Service of process—When service complete.
- WAC 296-09-140 Service of process—Filing with agency.
- WAC 296-09-370 Official notice—Matters of law.
- WAC 296-09-380 Official notice—Material facts.
- WAC 296-09-390 Presumptions.
- WAC 296-09-400 Stipulations and admissions of record.
- WAC 296-09-410 Form and content of decisions in contested cases.

WAC 296-09-420	Definition of issues before hearing.
WAC 296-09-430	Prehearing conference rule—Authorized.
WAC 296-09-440	Prehearing conference rule—Record of conference action.
WAC 296-09-450	Submission of documentary evidence in advance.
WAC 296-09-460	Excerpts from documentary evidence.
WAC 296-09-470	Expert or opinion testimony and testimony based on economic or statistical data—Number and qualifications of witnesses.
WAC 296-09-480	Expert or opinion testimony and testimony based on economic or statistical data—Written sworn statements.
WAC 296-09-490	Expert or opinion testimony and testimony based on economic or statistical data—Supporting data.
WAC 296-09-500	Expert or opinion testimony and testimony based on economic or statistical data—Effect of noncompliance with WAC 296-09-470 or 296-09-480.
WAC 296-09-510	Continuances.
WAC 296-09-520	Rules of evidence—Admissibility criteria.
WAC 296-09-530	Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
WAC 296-09-540	Petitions for rule making, amendment or repeal—Who may petition.
WAC 296-09-550	Petitions for rule making, amendment or repeal—Requirements.
WAC 296-09-560	Petitions for rule making, amendment or repeal—Agency must consider.
WAC 296-09-570	Petitions for rule making, amendment or repeal—Notice of disposition.
WAC 296-09-580	Declaratory rulings.
WAC 296-09-590	Forms.

WSR 06-07-140
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed March 21, 2006, 11:25 a.m.]

Title of Rule and Other Identifying Information: Hospital payment policy rules, industrial insurance, WAC 296-23A-0200 How does the department pay for hospital inpatient services?, 296-23A-0220 How does the department pay for hospital outpatient services?, 296-23A-0221 How does the self-insurer pay for hospital outpatient services?, 296-23A-0240 How does the department define and pay a new hospital?, 296-23A-0480 Which hospitals does the department exclude from diagnosis-related-group (DRG) payments?, 296-23A-0710 Definitions, and 296-23A-0750 What exclusions and exceptions apply to ambulatory-payment-classification (APC) payments for hospital services?

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Rules Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY May 22, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Hospital "peer groups" were defined by the department of health (DOH), however, on July 1, 2005, DOH abolished the use of "peer groups." This rule making will amend L&I's rules which refer to "peer groups" in selected hospital WACs.

Reasons Supporting Proposal: See Purpose above.
 Statutory Authority for Adoption: RCW 51.04.030.
 Statute Being Implemented: RCW 51.12.330.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Dee Hahn, L&I, Tumwater, Washington, (360) 902-6828; Implementation: Jim King, L&I, Tumwater, Washington, (360) 902-4244; and Enforcement: Robert Malooly, L&I, Tumwater, Washington, (360) 902-4209.

March 21, 2006
 Gary Weeks
 Director

AMENDATORY SECTION (Amending WSR 00-06-027, filed 2/24/00, effective 3/26/00)

WAC 296-23A-0200 How does the department pay for hospital inpatient services? The department will pay for hospital inpatient services according to the following table:

<i>Hospital Type or Location</i>	<i>Do Diagnosis Related Group (DRG) payment methods apply?</i>	<i>Do per diem payment methods apply?</i>	<i>Do percent of allowed charges (POAC) payment methods apply to hospital inpatient services?</i>
Children's Hospitals	No	No	Yes, paid 100% of allowed charges
Chronic Pain Management Program	Exempt, paid per department agreement.	Exempt, paid per department agreement.	Exempt, paid per department agreement.
Health Maintenance Organizations	No	No	Yes, paid 100% of allowed charges
Military	No	No	Yes, paid 100% of allowed charges
Veterans Administration	No	No	Yes, paid 100% of allowed charges
State psychiatric facility	No	No	Yes, paid 100% of allowed charges
((Washington rural (Peer Group A)	No	Yes, statewide per diem rates apply for five DRG categories: Chemical dependency, psychiatric, rehabilitation, medical, and surgical DRGs	No))
All other Washington hospitals	Yes	Yes, statewide average per diem rates apply for designated categories: Chemical dependency, psychiatric, rehabilitation, low volume medical, and low volume surgical DRGs	Yes, applies to low cost outlier payments and high cost outlier payments above the high cost outlier threshold

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

WAC 296-23A-0220 How does the department pay for hospital outpatient services? The department will pay for hospital outpatient services according to the following table:

<i>Hospital Type or Service Location</i>	<i>Does the Ambulatory Payment Classification System apply?</i>	<i>Do percent of allowed charges (POAC) payment methods apply?</i>	<i>Do the department's Medical Aid Rules and Fee Schedules apply to hospital outpatient radiology, laboratory, pathology, occupational therapy, and physical therapy services?</i>
Children's hospitals	No	Yes, paid 100% of allowed charges	Yes
Chronic Pain Management Program	No	Exempt, paid per department agreement	Exempt, paid per department agreement
Health Maintenance Organizations	Yes, paid statewide average per APC rate	Yes, applies to certain hospital outpatient services excluded from OPPS except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes
Military	No	Yes, paid 100% of allowed charges	No, paid 100% of allowed charges
Veterans Administration	No	Yes, paid 100% of allowed charges	No, paid 100% of allowed charges
State psychiatric facility	No	Yes, paid 100% of allowed charges	Yes
Other psychiatric hospitals	No	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes

<i>Hospital Type or Service Location</i>	<i>Does the Ambulatory Payment Classification System apply?</i>	<i>Do percent of allowed charges (POAC) payment methods apply?</i>	<i>Do the department's Medical Aid Rules and Fee Schedules apply to hospital outpatient radiology, laboratory, pathology, occupational therapy, and physical therapy services?</i>
Rehabilitation hospitals	No	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes
Cancer hospitals	No	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes
((Washington rural (Peer Group 1)	No	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes))
Critical access hospitals	No	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes
All other Washington hospitals	Yes	Yes, applies to certain hospital outpatient services excluded from OPPS except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes

Hospitals are reimbursed only for the technical component of rates listed in the fee schedules, for outpatient radiology, pathology and laboratory services.

See chapter 296-23 WAC for rules on radiology, pathology, laboratory, physical therapy, occupational therapy, and work hardening services.

See WAC 296-23A-700 for rules on prospective payment system for hospital outpatient services.

See WAC 296-20-132 and 296-20-135 for information on the conversion factor used for certain hospital outpatient services.

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

WAC 296-23A-0221 How does the self-insurer pay for hospital outpatient services? The self-insurer will pay for hospital outpatient services according to the following table:

<i>Hospital Type or Service Location</i>	<i>Do percent of allowed charges (POAC) payment methods apply?</i>	<i>Do the department's Medical Aid Rules and Fee Schedules apply to hospital outpatient radiology, laboratory, pathology, occupational therapy, and physical therapy services?</i>
Children's hospitals	Yes, paid 100% of allowed charges	Yes
Chronic Pain Management Program	Not Applicable	Not Applicable
Health Maintenance Organizations	Yes, paid 100% of allowed charges	Yes
Military	Yes, paid 100% of allowed charges	No, paid 100% of allowed charges
Veterans Administration	Yes, paid 100% of allowed charges	No, paid 100% of allowed charges
State psychiatric facility	Yes, paid 100% of allowed charges	Yes
Other psychiatric hospitals	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes

<i>Hospital Type or Service Location</i>	<i>Do percent of allowed charges (POAC) payment methods apply?</i>	<i>Do the department's Medical Aid Rules and Fee Schedules apply to hospital outpatient radiology, laboratory, pathology, occupational therapy, and physical therapy services?</i>
Rehabilitation hospitals	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes
Cancer hospitals	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes
((Washington rural (Peer Group 1)	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes))
All other Washington hospitals	Yes, applies to hospital outpatient services except radiology, laboratory, pathology, occupational therapy, and physical therapy	Yes

Hospitals are reimbursed only for the technical component of rates listed in the fee schedules, for outpatient radiology, pathology and laboratory services.

See chapter 296-23 WAC for rules on radiology, pathology, laboratory, physical therapy, occupational therapy, and work hardening services.

See WAC 296-23A-700 for rules on the prospective payment system for hospital outpatient services.

See WAC 296-20-132 and 296-20-135 for information on the conversion factor used for certain hospital outpatient services.

AMENDATORY SECTION (Amending WSR 00-06-027, filed 2/24/00, effective 3/26/00)

WAC 296-23A-0240 How does the department define and pay a new hospital? New hospitals are those open for less than one year prior to the implementation of the department's most recent hospital payment rates. The department will pay new hospitals according to the following table:

<i>Hospital Type or Location</i>	<i>What Diagnosis Related Group (DRG) base price applies?</i>	<i>What Per Diem Payment Rates Apply?</i>	<i>What percent of allowed charges (POAC) factor applies?</i>
Military, Veterans Administration, State Psychiatric, Health Maintenance Organization, Children's,	Exempt	Exempt	Paid 100% of allowed charges
Chronic Pain Management Program	Exempt, paid per department agreement	Exempt, paid per department agreement	Exempt, Paid per department agreement
((Washington Rural Hospital (Peer Group A)	Exempt	Washington statewide average per diem rates	Washington statewide average POAC))
Other Washington Hospital	Weighted median case-mix adjusted average cost per case for Washington DRG hospitals, except major teaching hospitals	Washington statewide average per diem rates	Washington statewide average POAC

A new hospital will be paid using its hospital-specific POAC within three years of receiving a provider account number(s) from the department.

AMENDATORY SECTION (Amending WSR 97-06-066, filed 2/28/97, effective 4/1/97)

WAC 296-23A-0480 Which hospitals does the department exclude from diagnosis-related-group (DRG) payments? The following hospitals are excluded from DRG payments:

- Military, Veterans Administration, state psychiatric facilities, health maintenance organizations (HMO), and children's hospitals will be paid their allowed charges.
- Department-approved chronic pain management programs will be paid according to department agreement or contract.
- (~~• Peer Group A hospitals, as defined by the department of health, will be paid using per diem rates.~~)
- Hospitals located outside of Washington will be paid a percent of allowed charges (POAC).
- Other hospitals, as determined by the department, may be excluded from DRG reimbursement rates due to concerns about access, case volume or other considerations. These facilities will be paid using the applicable POAC factor and per diem rates.

AMENDATORY SECTION (Amending WSR 03-21-069, filed 10/14/03, effective 12/1/03)

WAC 296-23A-0710 Definitions. "Alternate outpatient payment." A payment for proper and necessary services calculated using a method other than the APC method, such as the outpatient hospital rate or fee schedule.

"Ambulatory payment classification (APC) bill." An outpatient bill for hospital services that are grouped and paid using APCs.

"Ambulatory payment classification (APC) weight." The relative value assigned to each APC by CMS. For information on calculating the APC weights, please see 42 CFR, Chapter IV, Part 419, et al. Medicare Program; Prospective Payment System for Hospital Outpatient Services.

"Ambulatory payment classification (APC)." A grouping for outpatient visits which are similar both clinically and in the resources used.

"Ambulatory surgery centers (ASCs)." Ambulatory surgery centers as defined by the department. ASCs are excluded from the APC payment system.

"Blended rate." The dollar amount used to determine APC payments.

"Bundling." Including the costs of supplies and certain other items with the costs of APCs. Bundled services will not be paid separately.

"Cancer hospitals." Freestanding hospitals specializing in the treatment of individuals who have a neoplasm diagnosis.

"Children's hospitals." Freestanding hospitals specializing in the treatment of individuals less than fourteen years of age.

"CMS." Centers for Medicare and Medicaid Services, formerly the Health Care Financing Administration (HCFA).

"Correct coding initiative." A process to encourage hospitals to code the most appropriate diagnosis and procedure for the services rendered.

"Critical access hospitals." Critical access hospitals as defined by the department of health.

"Current procedural terminology (CPT)." A systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, interventions performed by physicians; the American Medical Association (AMA) publishes it annually.

"Discount factor." The percentage applied to additional significant procedures when a claim has multiple significant procedures or when the same procedure is performed multiple times.

"Exempt services." Services and hospitals that have been identified by CMS and/or L&I as exempt from the APC-based payment system.

"Health care common procedure coding system (HCPCS)." Medicare's procedure coding system, which consists of Level 1 CPT Codes, Level 2 National Codes, and Level 3 Local Codes.

"Incidental services." Proper and necessary services that are integral to the delivery of the significant procedure or medical visit and are not separately reimbursable.

"Inpatient only procedures." Certain procedures designated by CMS as being of sufficient resource intensity that an inpatient setting is always required.

"Modifier." A two-digit alphabetic and/or numeric identifier that is added to the procedure code to indicate the type of service performed. Modifiers add clarification to procedures and can affect payment. Modifiers are listed in the current CPT and HCPCS manuals.

"Non-APC services." Services specifically excluded by CMS or by L&I from APC payment.

"Out-of-state hospitals." Any hospital not physically located within the state of Washington.

"Outpatient code editor." A prepayment analysis program designed to exclude certain diagnostic and procedure codes from being classified within the APC payment system.

"Outpatient prospective payment system (OPPS)." A payment system that groups hospital outpatient visits into APCs and multiplies the relative weight factor by the OPPS conversion rate to determine the appropriate payment.

"Outpatient services." Proper and necessary health care services and treatment ordinarily furnished by a hospital in which the injured worker is not admitted as an inpatient.

"Outpatient." A patient who receives proper and necessary health care services or supplies in a hospital-type setting but is not admitted as an inpatient.

"Partial hospitalization." Mental health services provided in an inpatient setting without the traditional inpatient overnight stay.

"Pediatric services." Proper and necessary health care services and treatment ordinarily furnished by a hospital in which the injured worker is under the age of fourteen.

(~~"Peer group." Categories of hospitals adopted by the department of health for rate setting purposes. The categories are:~~

- ~~• Group 1— Usually rural hospitals.~~
- ~~• Group 2— Usually urban hospitals without a medical education program.~~
- ~~• Group 3— Hospitals with a medical education program.)~~

"Psychiatric hospitals." Freestanding hospitals specializing in the treatment of individuals with a mental health disease.

"Rehabilitation hospitals." Freestanding hospitals specializing in the treatment of individuals in need of rehabilitative services.

"Related encounters or related services." Multiple encounters which are:

- Provided within the same window of service; and
- By the same provider (hospital).

"Single visit." A single visit includes all related services that are combined for reimbursement when they occur with the same hospital during the window of service.

"Special programs." Programs specifically designated by the department.

"Transitional pass-through." Certain drugs, devices and biologicals, as identified by CMS that are entitled to a specified payment until CMS assigns and reimburses them under their own APC.

"Window of service." A single date of service. All services associated with the visit for that date constitute a single visit, even when those services are provided on different days.

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

WAC 296-23A-0750 What exclusions and exceptions apply to ambulatory-payment-classification (APC) payments for hospital services? (1) ~~((Peer Group 1 (rural) hospitals as identified by the Washington state department of health (DOH).~~

~~((2))~~ Critical access hospitals as identified by the Washington state department of health (DOH).

~~((3))~~ (2) All out-of-state hospitals.

~~((4))~~ (3) Military/veterans hospitals.

~~((5))~~ (4) Psychiatric hospitals.

~~((6))~~ (5) Rehabilitation hospitals.

~~((7))~~ (6) Cancer hospitals.

~~((8))~~ (7) Children's hospitals.

~~((9))~~ (8) Ambulatory surgery centers.

~~((10))~~ (9) Any outpatient service or special program identified by the department or by CMS as being a non-APC service.

~~((11))~~ (10) Any inpatient-only procedures as identified by CMS.

~~((12))~~ (11) Any APCs identified by the department as a non-APC service.

**WSR 06-07-151
EXPEDITED RULES
OFFICE OF THE
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R-2006-04—Filed March 22, 2006,
9:06 a.m.]

Title of Rule and Other Identifying Information: Regulatory improvement.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Scott, Insurance Commissioner's Office, P.O. Box 40255, Olympia, WA 98504-0255, e-mail Kacys@oic.wa.gov, fax (360) 586-3109, AND RECEIVED BY May 23, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed amendments make changes to sections of Title 284 WAC to correct century references after the millennium and correct the address for the commissioner's office due to recent office moves.

Reasons Supporting Proposal: These proposed amendments further the insurance commissioner's commitment to update Title 284 WAC to improve its clarity and efficiency.

Statutory Authority for Adoption: RCW 48.02.060.

Statute Being Implemented: RCW 48.74.025, 48.36A.-250, 48.36A.260, and 48.15.040.

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

Name of Proponent: Mike Kreidler, Insurance Commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7039; Implementation: Beth Berendt, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

March 22, 2006

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 94-26, filed 12/30/94, effective 1/30/95)

WAC 284-07-380 Statement of actuarial opinion based on an asset adequacy analysis. (1) The statement of actuarial opinion submitted in accordance with this section shall consist of:

(a) A paragraph identifying the appointed actuary and his or her qualifications (see subsection (2)(a) of this section);

(b) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, (see subsection (2)(b) of this section) and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed;

(c) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, e.g., anticipated

cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see subsection (2)(c) of this section), supported by a statement of each such expert in the form prescribed by subsection (5) of this section; and

(d) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see subsection (2)(f) of this section).

(e) One or more additional paragraphs may be appropriate in individual company cases, as follows:

(i) If the appointed actuary considers it necessary to state a qualification of his or her opinion;

(ii) If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;

(iii) If the appointed actuary must disclose reliance upon any portion of the assets supporting the asset valuation reserve (AVR), interest maintenance reserve (IMR), or other mandatory or voluntary statement of reserves for asset adequacy analysis;

(iv) If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

(v) If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or

(vi) If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(2) Recommended language: The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances shall be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language which clearly expresses his or her professional judgment. However, in any event the opinion shall

retain all pertinent aspects of the language provided in this section.

(a) The opening paragraph shall generally indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

(i) For a company actuary, the opening paragraph of the actuarial opinion shall read substantially as follows:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of that insurer to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and disability insurance companies."

(ii) For a consulting actuary, the opening paragraph shall contain a statement substantially similar to the following:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commissioner dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and disability insurance companies."

(b) The scope paragraph shall include a statement substantially similar to the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, ((49)) 20 []. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts				Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Exhibit 8					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability - Active					
F Disability - Disabled					
G Miscellaneous					
Total (Exhibit 8 Item 1, Page 3)					

Asset Adequacy Tested Amounts				Reserves and Liabilities	
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)	Other Amount (3)	Total Amount (1) + (2) + (3) (4)
Exhibit 9					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					
Exhibit 10					
1 Premiums and Other Deposit Funds					
1.1 Policyholder Premiums (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total Exhibit 10					
Exhibit 11 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 11, Part 1					
Separate Accounts (Page 3, Line 27)					
TOTAL RESERVES					

IMR (Page 3 Line 11.4)	
AVR (Page 3 Line 24.1)	(c)

Notes to table of reserves and related actuarial items:

Page and line numbers refer to the 1992 blank. Corresponding entries from blanks from later years shall be substituted as appropriate.

- (a) The additional actuarial reserves are the reserves established under WAC 284-07-350 (5)(b) or (c).
- (b) The appointed actuary shall indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in WAC 284-07-350(4), by means of symbols which shall be defined in footnotes to the table.
- (c) Allocated amount."

(c) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement substantially similar to one of the following:

- (i) "I have relied on [name], [title] for [e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and, as certified in the attached statement,..."
- (ii) "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

A statement of reliance on other experts should be accompanied by a statement by each of such experts of the form prescribed by subsection (5) of this section.

(d) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include substantially the following statement:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

(e) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records or both prepared by the company or a third party, the reliance paragraph shall include a statement substantially similar to one of the following:

- (i) "I have relied upon listings and summaries [of policies and contracts, of asset records] prepared by [name and title of company officer certifying in-force records] as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."
- (ii) "I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

Such a section shall be accompanied by a statement by each person relied upon based on the form prescribed by subsection (5) of this section.

(f) The opinion paragraph shall include a statement substantially similar to the following:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

- (i) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;
- (ii) Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
- (iii) Meet the requirements of the insurance laws and regulations of the state of [state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;
- (iv) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below);
- (v) Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations, and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.

or

The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary"

(3) Assumptions for new issues: The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this section.

(4) Adverse opinions: If the appointed actuary is unable to form an opinion, then he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(5) Reliance on data furnished by other persons. If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force or asset-oriented information, there shall be attached to the opinion the statement of a company officer or

accounting firm who prepared such underlying data, substantially similar to either or both of the following, as appropriate:

(a) "I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, ((+9)) 20[], and other liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of the Officer of the Company or Accounting Firm
Address of the Officer of the Company or Accounting Firm
Telephone Number of the Officer of the Company or Accounting Firm"

(b) "I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries, and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset-oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

Signature of the Officer of the Company, Accounting Firm or the Security Analyst
Address of the Officer of the Company, Accounting Firm or the Security Analyst
Telephone Number of the Officer of the Company, Accounting Firm or the Security Analyst"

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order R 81-1, filed 1/21/81)

WAC 284-15-030 Surplus line brokers' form to be filed—Contract stamp to be used. (1) RCW 48.15.040 requires that a surplus line broker execute an affidavit at the time of procuring insurance from an unauthorized insurer, and to file such affidavit with the commissioner within thirty days after the insurance is procured. The form for filing such affidavit shall be in substantially the following form, and may include additional information to satisfy requirements of the Surplus Line Association of Washington:

Policy or Certificate No: Premium, including any policy fee:
1. Name and license number of filing Surplus Line Broker:
2. Name and address of producing agent or broker (if any):
3. Name(s) of unauthorized insurer(s):
4. Name and address of insured:
5. Brief statement of coverages (common trade terms may be used, e.g. "furrier's block"):

STATE OF WASHINGTON } SURPLUS LINE
COUNTY } SS. BROKER'S AFFIDAVIT

I have procured insurance from an unauthorized insurer or insurers, in accordance with the laws and regulations of the state of Washington under my Surplus Line Broker's license. Details of such transaction are set forth above.

Such insurance could not be procured, after diligent effort was made to do so from among a majority of the insurers authorized to transact that kind of insurance in this state, and placing the insurance in such unauthorized insurer(s) was not done for the purpose of securing a lower premium rate than would be accepted by any authorized insurer.

I certify that I am duly authorized to place this coverage on behalf of the insured, that the risk has been duly accepted by the insurer(s), and that I ascertained the financial condition of the unauthorized insurer(s) before placing the insurance therewith.

(Signature of Surplus Line Broker)

Subscribed and sworn to before me this day of, ((+9)) 20. . .

Notary Public in and for the State of Washington, residing at

(2) Every insurance contract, including those evidenced by a binder, procured and delivered as a surplus line coverage pursuant to chapter 48.15 RCW shall have a conspicuous statement stamped upon its face, which shall be initialed by or bear the name of the surplus line broker who procured it, as follows:

"This contract is registered and delivered as a surplus line coverage under the insurance code of the state of Washington, enacted in 1947. It is not issued by a company regulated by the Washington state insurance commissioner and is not protected by any Washington state guaranty fund law."

AMENDATORY SECTION (Amending Order R 81-1, filed 1/21/81)

WAC 284-15-040 Form for surplus line insurer to designate person to receive legal process. (1) RCW 48.15.-150 permits service of legal process against an unauthorized

insurer that is sued upon any cause of action arising in this state under any contract issued by it as a surplus line contract to be made upon the insurance commissioner. The commissioner will mail the documents of process to the insurer at its principal place of business last known to the commissioner, or to a person designated by the insurer for that purpose in the most recent document filed with the commissioner on a form prescribed by the commissioner. If such unauthorized insurer elects to designate a person to receive such legal process from the commissioner, the designation shall be filed with the commissioner in substantially the form set forth in subsection (2) of this section.

(2) DESIGNATION OF PERSON TO WHOM COMMISSIONER SHALL FORWARD LEGAL PROCESS.

To the Insurance Commissioner of the state of Washington:

Pursuant to RCW 48.15.150, the undersigned Insurer hereby designates:

Name

Address
.....

as the person to whom the Insurance Commissioner shall forward legal process against the Insurer. This designation supersedes any similar designation heretofore made by this Insurer.

Executed at, this day of, ((19)) 20...

.....
(Insurer)

By

.....
(Title)

(3) The "person" designated may be an individual, firm or corporation.

(4) The commissioner shall forward process to the person designated in the most recent document filed with him.

(5) Pursuant to RCW 48.15.150, each policy issued by an unauthorized insurer as a surplus line contract must contain a provision designating the commissioner as the person upon whom service of process may be made.