

WSR 21-21-045
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)
[Filed October 14, 2021, 7:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-17-049.

Title of Rule and Other Identifying Information: WAC 388-14A-4900 Insurers must report claim information to the division of child support and withhold payments if directed.

Implements RCW 26.23.037 and SHB 1416, chapter 168, Laws of 2021, which establishes these reporting requirements. This law takes effect January 1, 2022.

Hearing Location(s): On November 23, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually.

Due to the impacts of COVID-19, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than November 24, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., November 23, 2021.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6198, fax 360-664-6185, TTY 711 relay service, email tencza@dshs.wa.gov [tencza@dshs.wa.gov], by 5:00 p.m., November 9, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The legislature enacted SHB 1416, chapter 168, Laws of 2021, during the 2021 legislative session. This new law, codified as RCW 26.23.037, directs insurers to report claims in advance of payment to division of child support (DCS). DCS will then use this information to determine whether unpaid child support exists, and if so, send notice to the insurer directing them to remit payment to DCS so that funds can be applied to the unpaid child support.

Reasons Supporting Proposal: This rule making is required to implement SHB 1416, chapter 168, Laws of 2021. It will ensure insurers have sufficient notice of the process and requirements to fully comply with the legal reporting and claims remitting requirements.

Statutory Authority for Adoption: RCW 26.23.037, 26.23.110, 74.08.090, 74.20A.055.

Statute Being Implemented: RCW 26.23.037 Insurer information exchange—Child support debt—Reporting requirements. (Effective January 1, 2022.)

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: DSHS, ESA, DCS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brady Horenstein, DCS Rules Coordinator, DCS Headquarters, P.O. Box 9162, Olympia, WA 98507-9162, 360-664-5291.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt under RCW 34.05.328 (5)(b)(vii) Rules of the department of social and health services ... concerning liability for care of dependents.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4), 34.05.328 (5)(b)(vii).

Explanation of exemptions: This proposal does not affect small businesses. This rule is exempt under RCW 34.05.328 (5)(b)(vii) Rules of the department of social and health services ... concerning liability for care of dependents.

October 14, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4899.2

NEW SECTION

WAC 388-14A-4900 Insurers must report claim information to the division of child support and withhold payments if directed. (1) Insurers must report certain insurance claims to the division of child support. Within 10 days after opening a tort liability claim for bodily injury or wrongful death, a workers' compensation claim, or a claim under a policy of life insurance, including an annuity, the insurer must report sufficient information to the division of child support to enable it to verify whether the claimant or other beneficiary owes child support. A claim is deemed opened when an insurer has sufficient information to:

(a) Determine that the claimant is entitled to payment of the insurance claim proceeds; and

(b) Make such payment. In the case of a claim that will be paid through periodic payments, the insurer must only report the claim before issuing the initial payment.

(2) The information reporting requirements are satisfied so long as the insurer provides minimum identifying information. Minimum identifying information about the claimant includes:

(a) The claimant's full name;

(b) The claimant's Social Security number, or if that is unavailable, the claimant's physical address and date of birth;

(c) The insurer's name;

(d) The insurer's claims department address for lien receipt;

(e) The insurer's claim number in the proper format for identification of the claim;

(f) The insurer's claim date of loss;

(g) The adjustor's name;

(h) The adjustor's telephone number;

- (i) The adjustor's email address; and
 - (j) The insurer's fax number for receiving lien notices.
- (3) Insurers can report information:

(a) To the federal office of child support enforcement or the child support lien network;

(b) Through an insurance claim data collection organization, which submits the required information to the federal office of child support enforcement, the child support lien network, or the division of child support within the timeframes and in the manner required by law; or

(c) To the division of child support special collections unit in writing or electronically, if the insurer does not have the capability to report through the above methods.

(4) Upon receipt of claims information, the division of child support will determine whether a child support debt exists. If so, the division of child support will issue a notice to the insurer to withhold payment and remit to the division of child support. An insurer is not required to remit payment to the division of child support if the notice issued is received after the insurer has disbursed payment on the claim.

(5) The division of child support will give any lien, claim, or demand for reasonable claim-related attorneys' fees, property damage, and medical costs priority over any withholding of payment. These costs must be final costs after all reductions have been pursued with interested parties.

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