

WSR 24-04-089
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 6, 2024, 9:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-156.

Title of Rule and Other Identifying Information: Naturopathic physician services: [Amending] WAC 296-23-205 General instructions—Naturopathic physicians; and repealing WAC 296-23-215 Office visits and special services—Naturopathic physicians.

Hearing Location(s): On March 14, 2024, at 2:00 p.m. Join electronically via Zoom <https://lni-wa-gov.zoom.us/j/86220265834?pwd=eUx6dDRWRzNQqlpXQVFEWGE2bW9Jdz09>, Meeting ID 862 2026 5834, Passcode ?Yp9vn4z; or join by phone (audio only), 253-215-8782 US (Tacoma), Meeting ID 862 2026 5834, Passcode 48674696. Find your local number <https://lni-wa-gov.zoom.us/j/86220265834?pwd=eUx6dDRWRzNQqlpXQVFEWGE2bW9Jdz09>. The hearing will begin at 2:00 p.m. and will continue until all oral comments are received.

Date of Intended Adoption: May 21, 2024.

Submit Written Comments to: Tina Vorse, Department of Labor and Industries (L&I), Insurance Services, Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, email Tina.Vorse@lni.wa.gov, fax 360-902-4249, by March 14, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Tina Vorse, phone 360-902-5934, fax 360-902-4249, email Tina.Vorse@lni.wa.gov, by March 6, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will update billing and coding requirements for naturopathic physicians to support consistency with other payers and other attending provider types.

WAC 296-23-205 General instructions—Naturopathic physicians, removing references to existing local billing codes and clarifying references to other relevant sections of rule (WAC) for naturopaths.

WAC 296-23-215 Office visits and special services—Naturopathic physicians, repeal.

Reasons Supporting Proposal: L&I strives to be in line with industry standards and to provide equitable reimbursement 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: Tina Vorse, Tumwater, Washington, 360-902-5934; Implementation and Enforcement: Mike Ratko, Tumwater, Washington, 360-902-4997.

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. L&I is exempt from preparing a cost-benefit analysis per RCW 34.05.328 (5)(b)(iii) and (iv) because this rule making adopts or incorporates without material change a Washington state statute and clarifies language of the rule without changing its effect.

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(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Scope of exemption for rule proposal:

Is fully exempt.

February 6, 2024

Joel Sacks

Director

OTS-5107.2

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-23-205 General instructions—Naturopathic physicians.

General instructions for naturopathic physicians:

- (1) Refer to WAC 296-20-010 through 296-20-125 (~~regarding~~) for general rules and billing procedures.
- (2) Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.
- (3) Refer to WAC 296-23-135 through 296-23-145 and 296-20-121 for requirements for X-rays.
- (4) Refer to chapter 246-836 WAC for scope of practice including prescribing authority and injection requirements.
- (5) Refer to WAC 296-21-290 for physical medicine limitations for attending doctors.
- (6) Refer to WAC 296-20-06101 for reporting requirements.
- (7) In addition to general rules found in WAC 296-20-010 through 296-20-125, the following rules apply to naturopathic physicians:
 - (a) (~~If the naturopathic physician is dual licensed, all treatment rendered by the practitioner must be billed as "treatment of the day." Further, the practitioner must elect and notify the department or self-insurer, which type of treatment he is providing for the injured worker, and abide by rules pertaining to area of elected treatment.~~)
 - (b) ~~Naturopathic physicians utilizing hydro-; mechano-; and/or electro-therapy modalities cannot bill for those services in addition to office visit services. Office visit includes treatment of the day.~~
 - (c) ~~No more than one office visit will be allowed per day, except on the initial and next two subsequent visits. The attending doctor must submit a detailed report regarding the need for the additional treatment.~~

~~(d) If necessary, X-rays may be taken immediately prior to and following the initial naturopathic physician treatment without prior authorization.~~

~~(e) X-rays immediately prior to and following each subsequent naturopathic physician treatment will be disallowed, unless previously authorized.~~

~~(f) Prior authorization must be obtained for X-rays subsequent to initial treatment.~~

~~(g) Payment will not be made for excessive or unnecessary X-rays. No payment will be made for X-rays taken on rejected or closed claims, except those taken in conjunction with a reopening application.~~

~~(h) See chapter 296-23 WAC for custody requirements for X-rays.~~

~~(4) Drugless therapy as a maintenance or supportive measure will not be authorized or paid.~~

~~(5) Treatment beyond the first twenty treatments or sixty days, whichever occurs first, will not be authorized without submission of a consultation report or a comprehensive comparative exam report regarding need for further care.) The department will not pay or authorize treatment that is not proper and necessary. See WAC 296-20-01002 for the definition of "proper and necessary" health care services.~~

~~(b) The department will not allow or pay for treatment measures that are unusual, controversial, obsolete, or experimental in nature. See WAC 296-20-03002 for treatment not authorized by the department.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-23-215	Office visits and special services— Naturopathic physicians.
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