

WSR 21-08-068
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-01—Filed April 6, 2021, 7:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-04-038.

Title of Rule and Other Identifying Information: Implementation credits: Specifying health carriers as a permissible entity in WAC 284-30-595.

Hearing Location(s): On May 13, 2021, at 10:00 a.m. 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 web page <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.

Submit Written Comments to: David Forte, P.O. Box 40260, Olympia, WA 98504-0260, email rulescoordinator@oic.wa.gov, fax 360-586-3109.

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.

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 RCW 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 office of the insurance commissioner has developed rules to provide guidance for companies to use and apply them.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, and 48.46.200.

Statute Being Implemented: RCW 48.30.140, 48.30.150.

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: David Forte, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7042; Implementation: Melanie Anderson, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000; and Enforcement: Toni Hood, P.O. Box 40260, Olympia, WA 98504-0260, 360-725-7000.

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 David

Forte, P.O. Box 40260, Olympia, WA 98504-0260, phone 360-725-7042, fax 360-586-3109, email davidf@oic.wa.gov.

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

Is exempt under RCW 19.85.020.

Explanation of exemptions: 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 fifty-eight direct health and medical insurance carrier firms operating annually in Washington, the mean number of employees per firm is one hundred eighteen (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.

April 6, 2021

Mike Kreidler

Insurance Commissioner

OTS-2986.1

AMENDATORY SECTION (Amending WSR 20-24-070, filed 11/24/20, effective 12/25/20)

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.

[Statutory Authority: RCW 48.02.060 and 48.43.715. WSR 20-24-070, § 284-30-595, filed 11/24/20, effective 12/25/20.]