

WSR 23-07-077
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER
[Filed March 14, 2023, 8:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-091.

Title of Rule and Other Identifying Information: Premium change transparency.

Hearing Location(s): On April 25, 2023, at 9:00 a.m., hybrid public hearing. In person at 5000 Capitol Boulevard S.E., Conference/ Training Room #120, Tumwater, WA 98501; or virtual attendance by Zoom. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website <https://www.insurance.wa.gov/premium-change-transparency-r-2022-01>. Written comments are due to OIC by close of business (5 p.m. PST) on April 28, 2023. Written comments can be emailed to RulesCoordinator@oic.wa.gov.

Date of Intended Adoption: May 2, 2023.

Submit Written Comments to: Michael Walker, Senior Policy Analyst, 302 Sid Snyder [Avenue S.W.], P.O. Box 40255, Olympia, WA 98504-0255, fax 360-586-3109, RulesCoordinator@oic.wa.gov, by close of business (5 p.m. PST) on April 28, 2023.

Assistance for Persons with Disabilities: Contact Katie Bennett, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email Katie.Bennett@oic.wa.gov, by April 24, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OIC is proposing rule making to achieve transparency for insureds receiving premium increases from insurers at renewal. This rule achieves transparency by defining the scope of insurer responsibility to explain the specific rate and rating factors that cause premiums to increase for consumers at renewal. This rule will require insurers to provide premium change transparency to their policyholders for factors evaluated and associated with increased premiums at renewal. The rule will afford insurance consumers additional protections in the form of financial transparency and fairness in insurance transactions at renewal, as well as the ability to make educated and informed decisions on purchasing or renewing policies, administering coverages, improving insurability, and managing insurance costs.

Reasons Supporting Proposal: Consumer complaints and industry responses provided to OIC demonstrate a need for insurers to provide transparency to policyholders for premium increases occurring at renewal. Insurers have limited disclosure duties at the time of renewal under the insurance code. Currently, insurers are under no legal obligation to disclose and explain the specific rate and rating factors used to determine premium increases. Neither the renewal notices, nor adverse action notices, required of insurers under current law operate to sufficiently disclose the totality of financial factors or underwriting decisions associated with premium increases in adequate detail for consumers.

The current renewal and adverse action notices do not effectively provide consumers with transparency in these transactions. This prevents policyholders from making educated and informed decisions on their insurance at renewal. This also leaves insurance consumers uninformed, not only on the factors considered by their insurers in underwriting and at renewal that can result in financial impacts, but also

as to how the consumer can mitigate their insurance risks or costs. Requiring insurers to provide premium change transparency to their insurance consumers, disclosing the increases in a consumer's insurance costs at renewal and the reasons causing increased policyholder premiums, will promote honesty and fairness in these insurance transactions, and upholds the public interest in the business of insurance.

Statutory Authority for Adoption: RCW 48.02.060 for OIC's general rule-making authority to implement RCW 48.01.030, 48.18.180, 48.18.2901, 48.18.292, 48.18.480, 48.18.545, 48.19.020, 48.19.035, and 48.30.010.

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: None.

Name of Proponent: OIC, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Walker, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7036; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7117; and Enforcement: Charles Malone, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7050.

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 Rules Coordinator, P.O. Box 40255, Olympia, WA 98504-0255, phone 360-725-7171, fax 360-586-3109, email RulesCoordinator@oic.wa.gov, www.insurance.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 19.85.025(4).

Explanation of exemptions: RCW 19.85.025(4), The businesses that must comply with the proposed rule are not small businesses, under chapter 19.85 RCW. **OIC has found that none of the existing insurance companies may be considered small businesses under RCW 19.85.020(3).**

OIC determined that property and casualty insurance companies are impacted by the implementation of this rule. Based on 2019 Bureau of Labor Statistics (BLS) data, direct property and casualty insurers are not considered small businesses, as they have on average 74 employees per firm (6,393 total employees in Washington, 87 average number of firms in Washington). Small business is defined as a business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has 50 or fewer employees (RCW 19.85.020). To verify that the impacted insurers are not small businesses, a question within the industry survey administered by OIC to evaluate the impacts of this rule making asked whether the insurer had 50 employees or fewer or more than 50 employees. All respondents except for three (12 respondents out of 15) indicated they had more than 50 employees. The three respondents that indicated they are small businesses were all a part of the same insurer group (and submissions were provided by the same contact). Despite the response that these are small businesses, they cannot be viewed as distinct entities under the definition of a "small business" considering they are not owned and operated independently from all other businesses. Upon reviewing the insurer group's 2022 financial report, OIC discovered that the total number of employees exceed 30,000 across the entire insurer group. The BLS data, in conjunction with the survey results and further research into insurer

groups' financial reports indicate that these entities cannot be considered small businesses under the definition provided in RCW 19.85.020(3).

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: The rule scope applies solely to insurers who will not meet the definition of small business in RCW 19.85.020(3). However, insurance producers can anticipate an associated impact from the premium change transparency required by the rule, as producers are likely to be contacted by their consumers to discuss their consumer protection rights or the new rule generally. Insurance producers can also meet the definition of small business under RCW 19.85.020(3). The rule will not impose more-than-minor costs on insurance producers.

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. RCW 19.85.0301 (1)(a), The proposed rule will not impose more-than-minor costs on businesses in an industry. **The proposed rule will not impose more-than-minor costs on insurance producers.**

Insurance producers will be impacted by an expected increase in consumer contacts and call volume regarding the premium change transparency. RCW 19.85.030 (1)(a) states that "... an agency shall prepare a small business economic impact state [statement]: (i) If the proposed rule will impose more than minor costs on businesses in an industry ..." OIC determined that this rule would not impose more-than-minor costs on insurance producer businesses.

From the industry survey, 64 percent of property and casualty insurers that responded estimated that producers would have costs resulting from direct impacts of the proposed rule. Respondents indicated that these costs would likely stem from increased call volume. Based on the survey data, OIC estimates that each insurance agency can expect to respond to 60 policyholders for 30 minutes each concerning the premium change transparency. This equates to 30 hours per agency answering questions resulting from the proposed rule making. Using 2019 BLS data, the average weekly pay for individuals employed by insurance agencies and brokerages in Washington is \$1,626. Assuming a 40-hour work week, that equals approximately \$40.65 per hour. Therefore, the cost of compliance for producers is estimated to be **\$1,219.50.**

$$(60 \text{ policyholders} * 0.5 \text{ hours}) * (\$1,626 \text{ average weekly pay} / 40\text{-hour work week}) = \$1,219.50$$

This cost of compliance is used to determine whether the cost imposed on producers by this rule is below or exceeds the minor cost threshold. The chart below shows the estimated cost of compliance (calculated above), as well as the minor cost estimate, which is the larger of either one percent of the average annual payroll or 0.3 percent of the average annual gross business income. When the cost of compliance is estimated to be \$1,219.50, it is well under the minor cost estimate of \$5,432.13.

| Industry NAICS Code | Estimated Cost of Compliance | NAICS Code Title | Minor Cost Estimate | 1% of Average Annual Payroll | 0.3% of Average Annual Gross Business Income |
|---------------------|------------------------------|-----------------------------------|---------------------|--|---|
| 524210 | \$1,219.50 | Insurance Agencies and Brokerages | \$5,432.13 | \$5,432.13 2020 data pulled from the employment security department | \$2,495.45 2020 data pulled from the department of revenue |

The cost estimate above assumes 60 policyholders will require 30 minutes each to discuss consumer questions concerning the premium change transparency. If each agency were to respond to 250 policyholders for 30 minutes each, well above the anticipated numbers provided in the industry survey, the associated costs would equal \$5,081.25 per producer business, still below the minor cost estimate.

The proposed rule requires insurers to provide the premium change transparency to policyholders upon written request by the policyholder for any premium increase occurring at renewal starting on June 1, 2024. Beginning on June 1, 2027, insurers will be required to provide premium change notices to policyholders upon a 10 percent premium increase occurring at renewal, or upon request. The cost of compliance for producers outlined above is for the second phase of the rule, where insurers must provide the notices upon a 10 percent premium increase or upon request. This phase is expected to result in higher costs for producers, as a higher number of consumers who receive the notices are likely to reach out for additional information. Producer costs associated with phase one of this rule are expected to be lower than the estimates provided and, therefore, still beneath the minor cost estimate.

The estimated cost of compliance is below the minor cost threshold. The figures used for this calculation are drawn from relevant data from BLS, the Washington employment security department, and the Washington department of revenue.

March 14, 2023
Mike Kreidler
Insurance Commissioner

OTS-4002.7

**Chapter 284-30A WAC
PREMIUM CHANGE TRANSPARENCY**

NEW SECTION

WAC 284-30A-010 Purpose. (1) Numerous consumer complaints filed with the commissioner about the premium increase explanations provided by insurers demonstrate a need for insurers to provide greater transparency to policyholders when their premiums increase.

(2) This chapter improves transparency in insurance by defining the scope of insurer responsibility to explain premium increases to policyholders.

(3) Insurers shall provide the premium change transparency required by this chapter to their policyholders indicating the premium increases occurring at renewal. Failure to provide the premium change transparency required by this chapter is hereby defined as an unfair and deceptive practice in the business of insurance under chapters 284-30 WAC and 48.30 RCW.

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NEW SECTION

WAC 284-30A-020 Scope of applicability. (1) This chapter applies to policies renewed on or after June 1, 2024.

(2) This chapter applies to authorized insurers with the following types of personal insurance policies:

(a) Private passenger automobile coverage; and

(b) Homeowner's coverage, including mobile homeowners, manufactured homeowners, condominium owners, and renter's coverage.

(3) This chapter applies to renewals of policies and will not apply to the purchase of new policies or new insurance applications.

(4) Exemptions:

(a) This chapter does not apply to personal insurance policies for coverage of boats, motorcycles, off-road vehicles, recreational vehicles, antique or collector vehicles, classic vehicles, and specialty vehicles.

(b) Insurers of health, disability, life, and long-term care are exempt from compliance with this chapter. Health care services contractors and health maintenance organizations are also exempt from compliance with this chapter.

(c) Nothing in this chapter requires insurers to disclose the contents of credit-based insurance scoring models, company placement criteria or eligibility rules, and strictly confidential insurance company trade secrets, as defined by chapter 19.108 RCW (Uniform Trade Secrets Act). However, insurers may need to provide information specific to the policyholder that has been produced through or resulting from these sources to comply with this chapter.

(d) Information in a filing on "usage-based insurance" and about the usage-based component of the rate is confidential and exempt from this chapter, pursuant to RCW 48.19.040.

(e) This chapter does not apply to policyholder-initiated changes to insurance coverages, policies, or premiums.

(f) This chapter does not apply to personal umbrella policies.

(5) This chapter is not intended to contradict or conflict with the Fair Credit Reporting Act (15 U.S.C. Sec. 1681).

(6) This chapter, and the associated premium change transparency requirements, are in addition to and separate from the disclosure requirements contained in chapter 284-24A WAC.

(7) Violation of this regulation is not a violation for purposes of RCW 48.30.015(5).

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NEW SECTION

WAC 284-30A-030 Definitions. When used in this chapter, these terms are defined as and have the following meaning:

(1) "Antique vehicle" or "collector vehicle" means a vehicle that is a classic vehicle and is at least 30 years old.

(2) "Classic vehicle" means a vehicle that is at least 10 years old and has historical interest for preservation or restoration.

(3) "Insurance" has the same meaning as provided in RCW 48.01.040.

(4) "Insurance policy" or "policy" or "insurance contract" or "contract" means any contract of insurance, indemnity, or suretyship, issued, proposed for issuance, or intended for issuance by any insurer that provides either:

(a) Private passenger automobile coverage; or

(b) Homeowner's coverage, including mobile homeowners, manufactured homeowners, condominium owners, and renter's coverage.

(5) "Insurer" means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, fraternal mutual insurer, and any other legal entity engaged in the business of insurance, and which is authorized to issue and which issues any insurance policy or insurance contract in this state that provides either:

(a) Private passenger automobile coverage; or

(b) Homeowner's coverage, including mobile homeowners, manufactured homeowners, condominium owners, and renter's coverage.

(6) "Policyholder" means either the persons, entities, or both, listed on the declarations page as the named insured in an insurance policy. Policyholder does not include other covered individuals or lienholders.

(7) "Policy period" means the time or period during which insurance coverage is in effect.

(8) "Premium" has the same meaning as provided in RCW 48.18.170.

(9) "Premium change transparency" means either insurer explanations or notices provided to policyholders regarding premium increases occurring at renewal according to this chapter.

(10) "Written" or "in writing" means any retrievable method of recording an agreement or document, and, unless otherwise specified, includes paper and electronic formats.

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NEW SECTION

WAC 284-30A-040 Premium change transparency thresholds. (1) Beginning June 1, 2024, and effective until June 1, 2027, insurers shall provide reasonable explanations, for insurance policies as described in WAC 284-30A-020, upon written request by the policyholder, for any premium increase occurring at renewal.

(2) Beginning June 1, 2027, insurers shall provide premium change notices, with reasonable explanations and primary factors, disclosing the causes of premium increases for insurance policies as described in WAC 284-30A-020. Insurers shall provide premium change notices automatically when a renewal will result in a 10 percent premium increase or more, or upon written request by the policyholder for any premium increase occurring at renewal.

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NEW SECTION

WAC 284-30A-050 Premium change transparency administrative requirements. (1) **Insurer premium change transparency disclaimer:** Beginning June 1, 2024, insurers shall include a prominent disclaimer on the first page or view of renewal notices and renewal billing statements indicating, in **at least 12-point type bold font**, substantially similar language as the following: **"Policyholders receiving an increase to their premiums at renewal can request an explanation by contacting their insurer in writing. Please see Chapter 284-30A WAC for additional information on your right to an explanation for your rate increase."**

(2) Insurers shall include their contact information in all premium change transparency to policyholders, and may include the producer's (if any), contact information.

(3) Consumers' written requests, and insurers' premium change transparency, are deemed to be requested and responded to at the date indicated by either postmark or electronic timestamp for delivery. In the event of duplicate requests or responses, for delivery by both mail and email, then this date will be determined as the earlier of either postmark or electronic timestamp for delivery.

(4) Insurers shall provide premium change transparency to the policyholder, and their producer (if any), according to the following:

(a) If upon written request, then no later than 20 calendar days from the receipt of the written request; and

(b) If upon renewal, due to a 10 percent premium increase or more, then automatically and no less than 20 calendar days prior to the effective date of the renewed policy.

(5) Insurers shall include a statement in all premium change transparency that the policyholder may contact their insurer to request additional information about the policyholder's premium increases.

(6) Insurers shall respond to and provide additional information for policyholder's subsequent requests for premium change transparency, no later than 20 calendar days from the receipt of any subsequent requests.

(7) Insurers shall send premium change transparency to policyholders in writing, and may send either explanations or notices via postal mail, or may deliver either in email or electronic format, if the policyholder has consented to receive notifications electronically. All electronic correspondence, notices, and deliveries must comply with chapter 48.185 RCW.

(8) Insurers may send premium change transparency to the policyholder individually or with renewal notices.

(9) Insurers may provide policyholders with access to a language translation service specific to the premium change transparency. This can include either written or telephonic translation services. If an insurer translates premium change transparency, then the translations must comply with WAC 284-20B-150.

(10) Insurers' records related to premium change transparency are subject to RCW 48.05.280. Insurers' records must be retrievable and made accessible to the commissioner during the retention period.

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NEW SECTION**WAC 284-30A-060 Premium change transparency notice requirements.**

(1) Beginning January 1, 2027, insurers shall file the premium change notice with the commissioner, whether using the premium change notice provided in WAC 284-30A-080, or using an alternative version of the premium change notice. Insurers shall file any alternative premium change notice with the commissioner, so the premium change notice can be reviewed for sufficiently meeting or exceeding the standards outlined in this chapter.

(2) Insurers' failure to use the premium change notice in WAC 284-30A-080, or obtain commissioner approval to use alternative insurer premium change notices, when notice is required under this chapter, is a violation of this chapter.

(3) Insurers' premium change notice filings and requests to use alternative premium change notices shall be submitted electronically in the system for electronic rate and form filings (SERFF).

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NEW SECTION

WAC 284-30A-070 Insurer communication standards. (1) Reasonable explanation is a communication standard that requires insurers to provide sufficient information, in terms that are understandable to an average policyholder, which enable the policyholder to figure out the basic nature of any premium increase.

(2) Primary factors is a communication standard that requires insurers to provide the specific rate and rating factors that caused the premium increase. The primary factors are the following:

(a) Auto-related factors (car garaging location, driving record, miles driven, number of drivers, and number of vehicles), claims history, discounts, fees and surcharges, demographic factors (age, credit history, education, gender, marital status, and occupation), property related factors (age, location, and value), premium capping, and rate changes (including those subject to rate stability rules, transition rules, or premium-capping rules, as referenced in WAC 284-24-130).

(b) Insurers shall include the primary factors in the premium change notice, if applicable to the premium increase, with any premium change notices processed for renewals effective on or after June 1, 2027. Factors not listed above as primary are considered as optional factors. Insurers may include additional optional factors not listed in this section, if applicable to the premium increase.

(3) Insurers may include composite rating variables in premium change transparency to inform policyholders of premium increases. However, if insurers include composite rating variables in their premium change transparency, then insurers shall explain the premium increase attributed to the composite rating variables.

(4) Insurers may include the use of estimated dollars in premium change transparency, if a reasonable explanation is provided by the

insurers to the policyholders on the degree of accuracy estimated dollars achieve, as specifically applied to that policy and premium increase.

(5) Insurers may show separate impacts by the different perils or risks being covered and the type of coverage for each.

(6) This chapter does not prohibit insurers from sending premium change transparency for all premium increases beyond those required in this section.

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NEW SECTION

WAC 284-30A-080 Premium change notice contents. (1) This section outlines the explanation required and minimum amount of information to include in the contents of the premium change notice. Insurers are permitted to provide additional information beyond these requirements.

(2) **Premium change notice.**

LICENSED INSURANCE COMPANY – NAME, ADDRESS, NAIC Number, & Notice Date

Policyholder Name, Policy Type, Covered Risks, Policy Number, Policy Period, and Effective Date

- **We are notifying you of a premium increase to your insurance policy. Your premium for this insurance policy has increased from (Total Amount) to (Total Amount) (insurers insert amounts).**
- **Your premium is impacted by (insurers insert primary factors such as auto-related factors, demographics, discounts, rates, and property related factors), which will cause the price of your insurance to increase at renewal.**
- **Here is an explanation for each reason of your premium increase (insurers shall communicate the reasons for the premium increases along with a corresponding explanation; insurers' explanations must include the percentage or dollar change occurring to the policyholder's premium at renewal):**

*Please note: Your future premiums may increase or decrease if you change your coverage, if there are changes in your risk characteristics that occur during this time frame, or by future rate change filings made by our company in your state.

If you have any questions, please contact your insurance company via telephone (), email (), postal mail (), or visit our website ().

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NEW SECTION

WAC 284-30A-090 Penalties for noncompliance. (1) Insurers who fail to adhere to this chapter, including the provisions on content requirements, timing, notice, and retention, are considered to have committed unfair and deceptive practices, and will be subject to the applicable remedies and penalties contained in chapters 284-30 WAC and 48.30 RCW.

(2) Insurers shall not enter into any agreement, arrangement, scheme, or understanding, or in any other manner pursue any course of conduct, designed or intended to avoid compliance with this chapter.

(3) Insurers are responsible for compliance with this chapter and cannot avoid liability by delegating premium change transparency requirements to third parties.

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NEW SECTION

WAC 284-30A-100 Severability clause. If any section or portion of a section of this chapter or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of this chapter or the applicability of the provision to other persons or circumstances shall not be affected.

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