

WSR 24-17-126  
PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES

[Filed August 20, 2024, 8:49 a.m.]

Subject of Possible Rule Making: WAC 296-23-238 Acupuncture rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.020 and 51.04.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department of labor and industries (L&I) adopted WAC 296-23-238 Acupuncture rules, with an effective date of June 1, 2019. Under the rule, "the department or self-insurer may pay for acupuncture treatment when ordered by the worker's attending provider or physician assistant and only for specific conditions related to the accepted condition on a claim and per department policy." Currently, L&I has a medical coverage decision that allows acupuncture treatment for a low back condition when it is an accepted condition on the claim. Starting September 1, 2024, a separate medical coverage decision will also allow acupuncture treatment for chronic migraine when that is an accepted condition on the claim.

WAC 296-23-238 limits payment to a maximum of 10 visits based on L&I's review of safety and efficacy data for a low back condition. L&I is considering amending this rule in order to have some flexibility to pay for a different number of visits for other conditions when acupuncture has been shown to be safe and effective for that condition per L&I review. The maximum number of visits could be taken out of rule and, instead, specified in the medical coverage decision for each condition.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Parties interested in these rules may contact the individual listed below. The public may also participate by providing written comments and/or testimony during the public comment process after amendments are proposed. A public hearing will be held during that period.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jami Lifka, L&I, Office of the Medical Director, P.O. Box 44321, Olympia, WA 98504-4321, fax 360-902-6315, email Jami.Lifka@Lni.wa.gov.

Additional comments: For more information on L&I rule making, visit the Rulemaking Activity web page at <https://www.lni.wa.gov/rulemaking-activity/>.

August 20, 2024  
Joel Sacks  
Director