



# RULE-MAKING ORDER

**CR-103E (May 2009)**  
(Implements RCW 34.05.360)

**Agency:** Insurance Commissioner

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes     No    If Yes, explain:

**Purpose:** These new rules implement Chapter 175, Laws of 2009 (SSB 5480). This legislation created the Washington Health Care Discount Plan Organization Act with an effective date of July 26, 2009. The legislation gives the Insurance Commissioner the authority to adopt rules to establish the application process to obtain a discount plan organization license and to establish reporting and record keeping requirements.

Insurance Commissioner Matter No. R 2009-10

**Citation of existing rules affected by this order:**

- Repealed:
- Amended:
- Suspended:

**Statutory authority for adoption:**      Sec.18, Chapter 175, Laws of 2009 and RCW 48.02.060

**Other authority :**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Emergency rule making will allow discount health care plan organizations to apply for licensure as required by the legislation. Regular rule making will commence at the same time as the emergency rule takes effect.

**Date adopted:** July 22, 2009

**NAME (TYPE OR PRINT)**  
Mike Kreidler

**SIGNATURE**

**TITLE**  
Insurance Commissioner

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** July 22, 2009

**TIME:** 2:04 PM

**WSR 09-16-003**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>6</u>	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>6</u>	Amended	_____	Repealed	_____

## Chapter 284-38 WAC

### HEALTH CARE DISCOUNT PLAN ORGANIZATION STANDARDS

#### NEW SECTION

**WAC 284-38-005 Purpose.** These regulations implement provisions of chapter 175, Laws of 2009 and create the processes and procedures for licensing a discount health organization.

#### NEW SECTION

**WAC 284-38-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

"Applicant" means any discount plan organization applying for a license under these regulations, and includes a discount plan organization or person holding a license or other form of authority from another state to operate as a discount plan organization.

"Application" means the written request for a license and the information required by the commissioner to obtain a license to transact discount plan business.

"License" means the license issued by the commissioner required to transact discount plan business under these regulations.

"Renewal application" means the renewal application under these regulations.

#### NEW SECTION

**WAC 284-38-015 Licensing forms and filing procedures.** (1) An applicant applying for a new license or a licensed discount plan organization applying for license renewal must complete and file all required forms. All forms, including the application form, the renewal form, and the annual report form required by this

regulation are available on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov). Applicants must fully complete and file only forms approved by the commissioner.

(2) If a licensed discount plan organization fails to file the renewal application or the renewal application fee sooner than ninety days before its license expires, the license will expire on its expiration date and the discount plan organization must complete and file a new application and pay the fee for a new license.

(3) Upon the expiration of a discount plan organization's license, all operations must be immediately suspended, including any advertising, marketing, solicitation, enrollment, and renewal of contracts or other activities specified under these regulations.

(4) Annual report filing requirements:

(a) Licensed discount plan organizations may file the information required for their initial annual report at the time they file their initial renewal application with the commissioner if their renewal date occurs prior to March 31st, and do not have to prepare a separate annual report filing or pay the annual report fee.

(b) If a licensed discount plan organization does not include its annual report information with its initial renewal application, it must file an annual report with the commissioner prior to March 31st. If the initial renewal application is due after March 31st, a licensed discount plan organization must file an annual report by March 31st, and may not defer filing the annual report on the basis that it plans to include the annual report information with its renewal.

(5) Any discount plan organization that has transacted or is transacting discount plan business to which the regulation applies prior to or as of July 26, 2009, must complete and file the commissioner's required application form along with all other required forms and information, on or before January 26, 2010. If a discount plan organization does not apply for a license as specified by the commissioner on or before October 26, 2009, it must discontinue operations after January 26, 2010.

#### NEW SECTION

**WAC 284-38-020 Audited financial statements.** (1) All audited financial statements filed with the commissioner under these regulations must:

(a) Be prepared in accordance with generally accepted auditing principles;

(b) Be certified by an independent certified public accountant; and

(c) Meet the standards and requirements of WAC 284-07-100 through 284-07-230; provided, that WAC 284-07-100 (5), (6), and (7)

shall not apply to discount plan organizations; and provided further, that discount plan organizations shall not be required to file any report, letter, or other document required to be filed with the commissioner by WAC 284-07-100 through 284-07-230 with the National Association of Insurance Commissioners (NAIC).

(2) All audited financial statements filed with an annual report under this regulation shall cover the same fiscal period as the discount plan organization's annual report.

(3) Unless an applicant has the commissioner's written permission, the applicant's own most recent financial statements audited by an independent certified public accountant must accompany the application. An applicant granted prior permission by the commissioner to substitute its parent company's audited financial statements for the financial statements of the applicant must specifically segregate and report the applicant's financial results as required by the commissioner.

(4) Unless a licensed discount plan organization has the commissioner's written permission, the licensee must include its own most recent financial statements audited by an independent certified public accountant with its renewal application or the annual report filed with the commissioner. A discount plan organization granted prior permission by the commissioner to substitute its parent company's audited financial statements for the financial statements of the applicant must specifically segregate and report the discount plan organization's financial results as required by the commissioner.

(5) If the commissioner determines there is good cause for a delay, the commissioner may grant an extension of time to file the audited financial statement. Discount plan organizations or applicants must submit a written request for an extension of time to file the audited financial statement at least ten business days prior to the filing deadline.

#### NEW SECTION

**WAC 284-38-025 Indemnity requirements for discount plan organizations.** (1) A discount plan organization providing a surety bond to protect the financial interests of Washington members must name the state of Washington as the obligee, but the bond will be for the benefit of the Washington members who have purchased the discount plan.

(2) A discount plan organization, in lieu of a surety bond, must provide a deposit in trust with the commissioner to protect the financial interests of Washington members.

(a) The deposit in trust must be in cash or other investments specifically authorized and eligible for investment pursuant to chapter 48.13 RCW.

(b) All deposits and withdrawals must be made by using forms

found on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

NEW SECTION

**WAC 284-38-030 Discount plan organization--General requirements for records availability and form and report filing.**

(1) All discount plan organization records and reports must be maintained at the discount plan organization's principal business address and are subject to review by the commissioner's representatives during the discount plan organization's usual and customary business hours.

(2) The commissioner may require discount plan organizations to provide copies of discount plan organization documents, records, and reports in lieu of making the records available for on-site review.

(3) All records, reports, notices, or other documents required by this regulation must be transmitted electronically in Adobe Acrobat PDF format.