



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 23, 2022

TIME: 10:48 AM

WSR 22-17-133

Agency: Office of the Insurance Commissioner

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR** 22-13-182 ; or
- Expedited Rule Making--Proposed notice was filed as WSR** _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) General Filing Instructions for Carrier Submission of Provider Agreements and HCBM Contracts

Insurance Commissioner Matter R 2022-06

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 5, 2022	10:00 am	Zoom meeting: Detailed information for attending the Zoom meeting posted on the OIC website here: https://www.insurance.wa.gov/general-filing-instructions-carrier-submission-provider-agreements-and-hcbm-contracts-r-2022-06	

Date of intended adoption: October 7, 2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Shari Maier
Address: PO Box 40255, Olympia, WA 98504-0255
Email: rulescoordinator@oic.wa.gov
Fax: 360-586-3109
Other:
By (date) October 6, 2022

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
Other:
By (date) October 6, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: To amend existing rules in order to establish unique general filing instructions for the submission of provider agreements and HCBM contracts by carriers.

Reasons supporting proposal: Requirements for the submission of provider agreements were originally placed in the Washington State SERFF Health and Disability Form Filing General Instructions. At that time, the Health Forms unit at the OIC reviewed both health forms and provider agreements. Now the subject matter expertise for review of provider agreements is located in the Provider Network Oversight Program at the OIC, and most carriers have a separate team for submission of these agreements, which have different filing requirements than health forms. Due to legislation passed in 2020 (2SSB 5601), carriers are also now required to file health care benefit manager (HCBM) contracts, which include provider network management and other services that direct provider activity. The subject matter expertise for the review of HCBM Contracting is located in the Provider Network Oversight Program that reviews provider agreements at the OIC. Health carriers similarly have units that specialize in these types of agreement and contracting arrangements.

Statutory authority for adoption: RCW 48.02.060, 48.19.035, 48.43.730, 48.43.731, 48.44.050, 48.46.200, and 48.200.900

Statute being implemented:

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: Private Public Governmental
Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Shari Maier	P.O. Box 40255, Olympia, WA 98504-0255	360-725-7173
Implementation:	Molly Nollette	P.O. Box 40255, Olympia, WA 98504-0255	360-725-7000
Enforcement:	Charles Malone	P.O. Box 40255, Olympia, WA 98504-0255	360-725-7000

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Simon Casson
Address: PO Box 40255, Olympia, WA 98504-0255
Phone: 360-725-7038
Fax: 360-586-3109
TTY:
Email: Simon.Casson@oic.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: Requirements for the submission of provider agreements were originally placed in the Washington State System for Electronic Rate and Form Filing (SERFF) Health and Disability Form Filing General Instructions. At that time, the Health Forms unit at the OIC reviewed both health forms and provider agreements. Now the subject matter expertise for review of provider agreements is located in the Provider Network Oversight Program at the OIC, and most carriers have a separate team for submission of these agreements, which have different filing requirements than health forms. Due to legislation passed in 2020 (2SSB 5601), carriers are also now required to file health care benefit manager (HCBM) contracts, which include provider network management and other services that direct provider activity. The subject matter expertise for the review of HCBM Contracting is located in the Provider Network Oversight Program that reviews provider agreements at the OIC. Health carriers similarly have units that specialize in these types of agreement and contracting arrangements. This rule will amend existing rules to establish unique general filing instructions for the submission of provider agreements and HCBM contracts by carriers.

RCW 19.85 states that "...an agency shall prepare a small business economic impact statement: (i) If the proposed rule will impose more than minor costs on businesses in an industry¹..." The Small Business Economic Impact Statement (SBEIS) must include "...a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements... To determine whether the proposed rule will have a disproportionate cost impact on small businesses²".

This rule proposal, or portions of the proposal, are exempt from requirements of the Regulatory Fairness Act under:

- RCW 19.85.025(4) – the businesses that must comply with the proposed rule are not small businesses, under chapter 19.85 RCW. The OIC has found that none of the existing health insurance issuers may be considered small businesses under RCW 19.85.020(3).

The average number of employees per firm was determined below using Bureau of Labor Statistics data:

Average number of firms: 58

Average annual employment over 12 months: 6,777

Average number of employees per firm: 118

The average number of employees for a Direct Health and Medical Insurance Carrier is 118 employees, above the small business threshold of 50 under chapter 19.85.020(3).

OIC determines that this rule is exempt from small business economic impact statement requirements.

(2) Scope of exemptions: Check one.

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: Complete this section if any portion is not exempt.

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

¹ Chapter 19.85.030: <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.030>

² RCW 19.85.040: <http://app.leg.wa.gov/RCW/default.aspx?cite=19.85.040>

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Date: August 23, 2022

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:



WAC 284-44A-010 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter.

(1) "Complete filing" means a package of information containing forms, supporting information, documents and exhibits submitted to the commissioner electronically using the system for electronic rate and form filing (SERFF).

(2) "Date filed" means the date a complete filing has been received and accepted by the commissioner.

(3) "Filer" means:

(a) A person, organization or other entity that files forms or rates with the commissioner for an HCSC; or

(b) A person employed by the HCSC to file under this chapter.

(4) "Form" means a:

(a) "Contract" as defined in WAC 284-43-6020; and includes:

(i) Applications;

(ii) Certificates of coverage;

(iii) Disclosure forms;

(iv) Enrollment forms;

(v) Policy forms, including riders;

(vi) Termination notice forms;

(vii) Short form filing summary, as outlined in the SERFF filing instructions; and

(viii) All other forms that are part of the contract.

(b) "Contract form" as defined in WAC 284-43-6020;

(c) Network enrollment forms described in WAC 284-170-280(3);

(d) Participating provider agreements as required by RCW ~~((48.44.070))~~ 48.43.730 and WAC ~~284-170-480~~; and

(e) Medicare supplement forms required to be filed under chapter 48.66 RCW.

(5) "Health care benefit manager contract" or "HCBM contract" means a contract that includes the services under RCW 48.200.020(4) and any amendments made to such contracts.

(6) "Health care service contractor" or "HCSC" means the same as in RCW 48.44.010.

~~((6))~~ (7) "NAIC" means the National Association of Insurance Commissioners.

~~((7))~~ (8) "Objection letter" means correspondence created in SERFF and sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a form under RCW 48.44.020 or ~~((48.44.070))~~ 48.43.730.

~~((8))~~ (9) "Rate" or "rates" means all classification manuals, rate manuals, rating schedules, class rates, and rating rules that must be filed under RCW 48.44.040 or 48.66.035.

~~((9))~~ (10) "Rate schedule" means the same as in WAC 284-43-6020.

~~((10))~~ (11) "SERFF" means the system for electronic rate and form filing. SERFF is a proprietary NAIC computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

~~((11))~~ (12) "Type of insurance" or "TOI" means a specific type of health care coverage listed in the *Uniform Life, Accident and*

Health, Annuity and Credit Coding Matrix published by the NAIC and available at www.naic.org.

AMENDATORY SECTION (Amending WSR 20-01-048, filed 12/9/19, effective 1/9/20)

WAC 284-44A-040 Filing instructions that are incorporated into this chapter. SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF website into this chapter. By reference, the commissioner incorporates these documents into this chapter:

- (1) The *SERFF Industry Manual* available within the SERFF application; and
- (2) State specific rate and form filing instructions posted on the commissioner's website (www.insurance.wa.gov), including the:
 - (a) *Washington State SERFF Life and Disability Form Filing General Instructions*;
 - (b) *Washington State SERFF Life, Health and Disability Rate Filing General Instructions*;
 - (c) *Washington State SERFF Health and Disability Form Filing General Instructions*; (~~and~~)
 - (d) *Washington State SERFF Health and Disability Binder Filing General Instructions* (also called "plan management instructions"); and
 - (e) *Washington State SERFF Carrier Provider Agreement and HCBM Contract Filing General Instructions*.

AMENDATORY SECTION (Amending WSR 20-01-048, filed 12/9/19, effective 1/9/20)

WAC 284-44A-050 General form and rate filing rules. (1) Each form or rate filing must be submitted to the commissioner electronically using SERFF.

- (a) Every form filed in SERFF must:
 - (i) Be attached to the form schedule; and
 - (ii) Have a unique identifying number and a way to distinguish it from other versions of the same form.
- (b) Filers must send all written correspondence related to a form or rate filing in SERFF.
- (2) All filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit new or revised forms to the commissioner for review in final form displayed in (~~ten-point~~) 10-point or larger type.
- (3) Filers must submit complete filings that comply with the *SERFF Industry Manual* available within the SERFF application and state specific instructions applicable to the particular filing, as revised from time to time and posted on the commissioner's website (www.insurance.wa.gov) including the:
 - (a) *Washington State SERFF Life and Disability Form Filing General Instructions*;

(b) *Washington State SERFF Life, Health and Disability Rate Filing General Instructions;*

(c) *Washington State SERFF Health and Disability Form Filing General Instructions; ((and))*

(d) *Washington State SERFF Health and Disability Binder Filing General Instructions (also called "plan management instructions"); and*

(e) Washington State SERFF Carrier Provider Agreement and HCBM Contract Filing General Instructions.

(4) Filers must submit separate filings for each type of insurance.

WAC 284-46A-010 Definitions that apply to this chapter. The definitions in this section apply throughout this chapter.

(1) "Complete filing" means a package of information containing forms, supporting information, documents and exhibits submitted to the commissioner electronically using the system for electronic rate and form filing (SERFF).

(2) "Date filed" means the date a complete filing has been received and accepted by the commissioner.

(3) "Filer" means:

(a) A person, organization or other entity that files forms or rates with the commissioner for an HMO; or

(b) A person employed by the HMO to file under this chapter.

(4) "Form" means a:

(a) "Contract" as defined in WAC 284-43-6020; and includes:

(i) Applications;

(ii) Certificates of coverage;

(iii) Disclosure forms;

(iv) Enrollment forms;

(v) Policy forms, including riders;

(vi) Termination notice forms;

(vii) Short form filing summary, as outlined in the SERFF filing instructions; and

(viii) All other forms that are part of the contract.

(b) "Contract form" as defined in WAC 284-43-6020;

(c) Network enrollment forms described in WAC 284-170-280(3);

(d) Prepayment agreements described in RCW 48.46.060;

(e) Participating provider agreements as required by RCW ~~((48.46.243))~~ 48.43.730 and WAC ~~284-170-480~~; and

(f) Medicare supplement forms required to be filed under chapter 48.66 RCW.

(5) "Health care benefit manager contract" or "HCBM contract" means a contract that includes the services under RCW 48.200.020(4) and any amendments made to such contracts.

(6) "Health maintenance organization" or "HMO" means the same as in RCW 48.46.020.

~~((6))~~ (7) "NAIC" means the National Association of Insurance Commissioners.

~~((7))~~ (8) "Objection letter" means correspondence created in SERFF and sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves a form under RCW 48.46.060 or ~~((48.46.243))~~ 48.43.730.

~~((8))~~ (9) "Rate" or "rates" means all classification manuals, rate manuals, rating schedules, class rates, and rating rules that must be filed under RCW 48.46.060 or 48.66.035.

~~((9))~~ (10) "Rate schedule" means the same as in WAC 284-43-6020.

~~((10))~~ (11) "SERFF" means the system for electronic rate and form filing. SERFF is a proprietary NAIC computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

((11)) (12) "Type of insurance" or "TOI" means a specific type of health care coverage listed in the *Uniform Life, Accident and Health, Annuity and Credit Coding Matrix* published by the NAIC and available at www.naic.org.

AMENDATORY SECTION (Amending WSR 20-01-048, filed 12/9/19, effective 1/9/20)

WAC 284-46A-040 Filing instructions that are incorporated into this chapter. SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF website into this chapter. By reference, the commissioner incorporates these documents into this chapter:

- (1) The *SERFF Industry Manual* available within the SERFF application; and
- (2) State specific rate and form filing instructions posted on the commissioner's website (www.insurance.wa.gov), including the:
 - (a) *Washington State SERFF Life and Disability Form Filing General Instructions*;
 - (b) *Washington State SERFF Life, Health and Disability Rate Filing General Instructions*;
 - (c) *Washington State SERFF Health and Disability Form Filing General Instructions*; ~~(and)~~
 - (d) *Washington State SERFF Health and Disability Binder Filing General Instructions* (also called "plan management instructions"); and
 - (e) *Washington State SERFF Carrier Provider Agreement and HCBM Contract Filing General Instructions*.

AMENDATORY SECTION (Amending WSR 20-01-048, filed 12/9/19, effective 1/9/20)

WAC 284-46A-050 General form and rate filing rules. (1) Each form or rate filing must be submitted to the commissioner electronically using SERFF.

- (a) Every form filed in SERFF must:
 - (i) Be attached to the form schedule; and
 - (ii) Have a unique identifying number and a way to distinguish it from other versions of the same form.
- (b) Filers must send all written correspondence related to a form or rate filing in SERFF.
- (2) All filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit new or revised forms to the commissioner for review in final form displayed in ten-point or larger type.
- (3) Filers must submit complete filings that comply with the *SERFF Industry Manual* available within the SERFF application and state specific instructions applicable to the particular filing as revised from time to time and posted on the commissioner's website (www.insurance.wa.gov), including the:

(a) *Washington State SERFF Life and Disability Form Filing General Instructions;*

(b) *Washington State SERFF Life, Health and Disability Rate Filing General Instructions;*

(c) *Washington State SERFF Health and Disability Form Filing General Instructions; ((and))*

(d) *Washington State SERFF Health and Disability Binder Filing General Instructions (also called "plan management instructions"); and*

(e) Washington State SERFF Carrier Provider Agreement and HCBM Contract Filing General Instructions.

(4) Filers must submit separate filings for each type of insurance.

AMENDATORY SECTION (Amending WSR 20-01-048, filed 12/9/19, effective 1/9/20)

WAC 284-58-025 Filing instructions that are incorporated into this chapter. SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF website into this chapter. By reference, the commissioner incorporates these documents into this chapter:

- (1) The *SERFF Industry Manual* available within the SERFF application; and
- (2) State specific rate and form filing instructions posted on the commissioner's website (www.insurance.wa.gov), including the:
 - (a) *Washington State SERFF Life and Disability Form Filing General Instructions*;
 - (b) *Washington State Life, Health and Disability Rate Filing General Instructions*;
 - (c) *Washington State SERFF Health and Disability Form Filing General Instructions*; (~~and~~)
 - (d) *Washington State SERFF Health and Disability Binder Filing General Instructions* (also called "plan management instructions"); and
 - (e) *Washington State SERFF Carrier Provider Agreement and HCBM Contract Filing General Instructions*.

AMENDATORY SECTION (Amending WSR 21-03-008, filed 1/7/21, effective 2/7/21)

WAC 284-58-030 General form and rate filing rules. (1) Each credit, life or disability insurance form or rate filing must be submitted to the commissioner electronically using SERFF.

- (a) Every form filed in SERFF must be attached to the form schedule.
- (b) Filers must send all written correspondence related to a form or rate filing in SERFF.
- (2) All filed forms must be legible for both the commissioner's review and retention as a public record. Filers must submit new or revised forms to the commissioner for review in final form displayed in ten-point or larger type.
- (3) Filers must submit complete filings that comply with the *SERFF Industry Manual* available within the SERFF application and state specific filing instructions applicable to the particular filing, as revised from time to time and posted on the commissioner's website (www.insurance.wa.gov), including the:
 - (a) *Washington State SERFF Life and Disability Form Filing General Instructions*;
 - (b) *Washington State SERFF Life, Health and Disability Rate Filing General Instructions*;
 - (c) *Washington State SERFF Health and Disability Form Filing General Instructions*; (~~and~~)
 - (d) *Washington State SERFF Health and Disability Binder Filing General Instructions* (also called "plan management instructions"); and

(e) Washington State SERFF Carrier Provider Agreement and HCBM Contract Filing General Instructions.

(4) Filers must submit separate filings for each type of insurance. This section does not apply to:

(a) Credit insurance filings made under RCW 48.34.040; or

(b) Group insurance where different types of insurance are incorporated into a single certificate.

(5) All stand-alone prescription drug plans which exclusively supplement a medicare Part D employer group waiver plan and modification of a contract form or rate must be filed before the contract form is offered for sale to the public and before the rate schedule is used.