

R 2020-08 Change of Insurance – offset of expenses of group policyholder

Stakeholder Draft | July 9th, 2020

Comments due to OIC at rulescoordinator@oic.wa.gov by August 12th, 2020

RECOMMENDED AMENDMENTS IN WAC CHAPTER 284-30 TRADE PRACTICES

WAC 284-30-320 Definitions.

When used in this regulation, WAC 284-30-300 through 284-30-400:

- (1) "Actual cash value" means the fair market value of the loss vehicle immediately prior to the loss.
- (2) "Claimant" means, depending upon the circumstance, either a first party claimant, a third party claimant, or both and includes a claimant's designated legal representative and a member of the claimant's immediate family designated by the claimant.
- (3) "Comparable motor vehicle" means a vehicle that is the same make and model, of the same or newer model year, similar body style, with similar options and mileage as the loss vehicle and in similar overall condition, as established by current data. To achieve comparability, deductions or additions for options, mileage or condition may be made if they are itemized and appropriate in dollar amount.
- (4) "Documented expenses" means a specific expense that is paid by a group policy holder and documented by the group policy holder after it is incurred.

(45) "Current data" means data within ninety days prior to or after the date of loss.
(56) "File" means a record in any retrievable format, and unless otherwise specified, includes paper and electronic formats.

(67) "First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right as a covered person to payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by a policy or contract.

(8) "Group policy holder" means a large group policy holder or policy owner in which a single contract covers an entire group of 51 or more individuals as defined under RCW 48.21.010.

(79) "Insurance policy" or "insurance contract" mean any contract of insurance, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any insurer.

(810) "Insurer" means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds insurer, fraternal mutual insurer, fraternal mutual life insurer, and any other legal entity engaged in the business of insurance, authorized or licensed to issue or who issues any insurance policy or insurance contract in this state. "Insurer" does not include health care service contractors, as defined in RCW 48.44.010, and health maintenance organizations, as defined in RCW 48.46.020.

(911) "Investigation" means all activities of the insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.

(1012) "Loss vehicle" means the damaged motor vehicle or a motor vehicle that the insurer determines is a "total loss."

(1113) "Motor vehicle" means any vehicle subject to registration under chapter 46.16 RCW.

(1214) "Notification of claim" means any notification, whether in writing or other means acceptable under the terms of an insurance policy or insurance contract, to the insurer or its agent, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.

(1315) "Principally garaged area" means the place where the loss vehicle is normally kept, consistent with the applicable policy of insurance.

(16) "Shall describe any such payment" means the specific expenses that are described in the group policy holder's contract with the insured and which establish the limits of acceptable expenses under the contract.

(14~~17~~) "Third party claimant" means any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership or other legal entity insured under an insurance policy or insurance contract of the insurer.

(15~~18~~) "Total loss" means that the insurer has determined that the cost of parts and labor, plus the salvage value, meets or exceeds, or is likely to meet or exceed, the "actual cash value" of the loss vehicle. Other factors may be considered in reaching the total loss determination, such as the existence of a biohazard or a death in the vehicle resulting from the loss.

(16~~19~~) "Written" or "in writing" means any retrievable method of recording an agreement or document, and, unless otherwise specified, includes paper and electronic formats.

WAC 284-30-595 (New WAC) Unfair Practices with Respect to documented expense for implementation credits

(1) Under RCWs 48.30.140 and .150, an insurer may issue payment to offset a documented expense that is incurred by a group policy holder while transferring from one policy to another policy provided that the insurer maintains and documents said expense within the previous three years from the date of the expense.

(a) The failure to maintain and document an expense incurred by a group policy holder constitutes an unfair trade practice and is a violation of this chapter.

(b) Upon the Commissioner's request, the insurer must provide proof of a documented expense in the form of paper or electronic copy.