

# R 2020-08 Change of insurance – offset of expenses of group policyholder

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Stakeholder Draft | September 3<sup>rd</sup>, 2020

Comments due to OIC at [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov) by September 12<sup>th</sup>, 2020

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## 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~~ means specific incurred expenses which are either paid by the Group Policyholder or paid on behalf of the Group Policyholder and for which documentation is obtained by the insurer." Such documented expenses include but are not limited to training, marketing, consumer awareness, information technology and computer programming and operations and administration. Such expenses must be specifically disbursed and actually incurred within the limits set forth in the policy or policy addendum.

(4-5) "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 policyholder" means a large group policy holder an insured or policy owner under a group policy or in which a single contract which provides coverage to 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, ~~Lloyd's 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 46.16RCW.

(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 or subsequent contract addendum with the insured and which establish the limits of acceptable expenses under the contract.

(1417) "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.

(1518) "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.

(1619) "Written" or "in writing" means any retrievable method of recording an agreement or document, and, unless otherwise specified, includes paper and electronic formats.

## **NEW WAC**

### **WAC 284-30-595 Unfair Practices ~~with respect to~~ regarding documented expenses 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 evidence of the documented expenses and documents within the previous for three years from the date of the expenses. An insurer will describe in the policy or in any such filing with the commissioner that the payment made to the group policy holder will not exceed the amount of the documented expenses.

(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.