



Mike Kreidler- Insurance commissioner

As required by

The Washington State Administrative Procedures Act

Chapter 34.05 RCW

Matter No. **R 2024-01**

**CONCISE EXPLANATORY STATEMENT; RESPONSIVENESS
SUMMARY; RULE DEVELOPMENT PROCESS; AND
IMPLEMENTATION PLAN**

Relating to the adoption of

Implementation of SSB 5986 and updates to the Balance Billing Protection Act
(BBPA)

November 27, 2024

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Section 1: Introduction

Revised Code of Washington (RCW) 34.05.325(6) requires the Office of Insurance Commissioner (OIC) to prepare a “concise explanatory statement” (CES) prior to filing a rule for permanent adoption. The CES shall:

1. Identify the Commissioner's reasons for adopting the rule;
2. Describe differences between the proposed rule and the final rule (other than editing changes) and the reasons for the differences; and\
3. Summarize and respond to all comments received regarding the proposed rule during the official public comment period, indicating whether or not the comment resulted in a change to the final rule, or the Commissioner's reasoning in not incorporating the change requested by the comment; and
4. Be distributed to all persons who commented on the rule during the official public comment period and to any person who requests it.

Section 2: Reasons for Adopting the Rule

The Commissioner is adopting rules relating to the implementation of SSB 5986 and is updating its Balance Billing Protection Act rules. SSB 5986 amends state law related to the inclusion of ground ambulance services in the Balance Billing Protection Act (BBPA). It also amends network access and contracting standards for transports to emergency behavioral health services. Rulemaking is necessary to revise the Balance Billing Protection Act rules in Chapter 284-43B WAC and OIC network access rules in Chapter 284-170 WAC to be consistent with SSB 5986 and make needed updates to other portions of the Balance Billing Protection Act rules. Rulemaking is also necessary to update the BBPA rules, including but not limited to consideration of arbitrator fees and revisions to the arbitration process for arbitration authorized under RCW 48.49.135. The rules will facilitate the implementation of recent law changes by ensuring that all affected entities understand their rights and obligations under the new law.

Section 3: Rule Development Process

The CR-101 for this rulemaking was filed with the Office of the Code Reviser on May 21, 2024 (WSR 24-11-117). The comment period for the CR-101 closed on June 21, 2024. Three comments were received.

A first prepublication draft was released on July 17, 2024. Comments were due by July 31, 2024. Seven comments were received on the first prepublication draft.

A second prepublication draft was released on August 27, 2024. Comments were due by September 11, 2024. An interested parties meeting was held on

September 4, 2024. Four written comments were received on the second prepublication draft.

The CR-102 for the rulemaking was published in the Washington State Register on October 22, 2024 (WSR 24-21-152). The Commissioner accepted comments through November 26, 2024. Two comments were received on the CR-102.

The Commissioner held a public hearing on the proposed rule text on November 26, 2024; the hearing was administered by Sydney Rogalla as a virtual meeting. Testimony was presented by Sean Graham, representing the Washington State Medical Association and the Washington Chapter of the American College of Emergency Physicians, and Amy Brackenbury, representing the Washington State Society of Anesthesiologists.

The CR-103 was submitted to the Code Reviser for adoption on November 27, 2024.

Section 4: Differences Between Proposed and Final Rule

The proposal included rules relating to the implementation of SSB 5986 (Chapter 48.49 RCW) and updates to provisions of the Balanced Billing Protection Act. It included necessary amendments to current rules related to the BBPA for the inclusion of ground ambulance services organizations. The proposal also addressed expanded coverage of behavioral health emergency services, network access standards, and updates to provisions of the Balanced Billing Protection Act rules.

The final rule does not differ from the rule proposed in the CR-102 filing.

Section 5: Responsiveness Summary

The OIC received a total of 16 written comments and suggestions regarding R 2024-01, inclusive of the CR-101, two prepublication drafts, and the CR-102. The following information contains a description of the comments, the OIC's response to the comments, and information about whether the OIC made changes to the proposed rule as a result of the comments.

The OIC received comment from:

- Association of Washington Healthcare Plans
- Jeremy Belanger
- Camas-Washougal Fire Department
- Cambia Health Solutions
- Coordinated Care Corporation
- National Multiple Sclerosis Society

- Northwest Health Law Advocates
- Pend Oreille County Fire Protection District 2
- Washington Ambulance Association
- Washington Council for Behavioral Health
- Washington Chapter of the American College of Emergency Physicians- *by testimony*
- Washington State Medical Association
- Washington State Society of Anesthesiologists- *by testimony*

Comments received on the CR-101, prepublications drafts, and CR-102

Comment	OIC Response
<i>General Comments</i>	
The commentor expressed their support for the OIC's continued work on the BBPA and inclusion of ground ambulance services organizations in the BBPA.	The OIC appreciates this comment.
The commentor wished to know if the changes to the BBPA rules solely focused on updating the alternate access delivery request (AADR) forms found in the appendices of the rule.	No, the changes to Chapter 284-43B WAC are not solely related to the AADR forms found in the appendices of this rule. Changes were made throughout Chapter 284-43B WAC, and a new section was added to Chapter 284-170 WAC.
<i>WAC 284-43B-010 Definitions</i>	
The commentor recommends that the OIC include a definition of "cost-sharing" in WAC 284-43B-010 and that the definition be consistent with the existing definition for "cost-sharing" in RCW 48.43.005(20).	The OIC appreciates this comment. The requested definition was added to the final rule.

<p>The commentor requests that the OIC include a definition of resident and non-resident rates in WAC 284-43B-010.</p>	<p>The OIC did not change the language of the proposed rule.</p> <p>The final rule does not include the requested definitions for resident and non-resident rates.</p> <p>Resident and non-resident rates are defined by some local jurisdictions that operate ground ambulance services. The rates can vary by county, district, and zip code.</p> <p>Furthermore, establishment of resident and non-resident rates are not a newly proposed rate process. They have been used by local ground ambulance services organizations without issue or a definition from the OIC. Including a definition of resident and non-resident rates would create unnecessary confusion for all interested parties and could potentially force changes in longstanding practices by local governmental entities. This would be contrary to the intent of SSB 5986.</p>
<p>The commentor recommends that the OIC include a definition of “mutual aid” in WAC 284-43B-010.</p> <p>The commentor also asked if a resident or non-resident rate would apply in this context.</p>	<p>The OIC appreciates this comment.</p> <p>The requested definition was added to the final rule.</p> <p>Resident and non-resident rates would not apply in mutual aid transports as mutual aid transports involve a ground ambulance services organization that is transporting a patient who is not a resident of their primary geographic service area.</p>
<p>WAC 284-43B-025 Balance billing prohibitions and consumer cost-sharing for ground ambulance services.</p>	
<p>The commentor strongly supports the protective consumer language included in this section.</p>	<p>The OIC appreciates this comment.</p>

<p>The commentor requested that the OIC consider amending their late payment interest policy. They specifically requested that the OIC implement a 6-month grace period given the newness of the rate reporting system, the confusion over resident and non-resident rate submission, and the general newness of ground ambulance services organizations being included in the BBPA.</p>	<p>The OIC did not change the language of the proposed rule because it would be beyond the scope of this rulemaking. It would require amending WAC 284-170-431, which is a rule of broad applicability related to timeliness of carrier claims processing that has not been included in any previous version of this rule.</p>
<p>The commentor requests that payments be required from carriers within 30-days of receipt of the claim and that the claim can accrue interest for every day it is late past the 30-day window.</p>	<p>The OIC did not change the language of the proposed rule.</p> <p>Much of the commentor's request is already addressed by WAC 284-170-431, which requires carriers to process 95% of clean claims within 30 days of receipt by the carrier and addresses payment of interest on claims by carriers when the standard is not met.</p>
<p>WAC 284-43B-027 Payments to nonparticipating ground ambulance services organizations.</p>	
<p>The commentor strongly supports the protective consumer language included in this section.</p>	<p>The OIC appreciates this comment.</p>

<p>Mutual Aid</p> <p>Multiple commentors through the CR-101, first prepublication draft, and second prepublication draft requested that the OIC establish a definition and reimbursement formula for transports that occur outside of a ground ambulance services organization's primary geographic service area. This is also referred to as "mutual aid" which is defined in WAC 284-43B-010 of the proposed rule. The comments received on this issue are as follows:</p> <p>CR-101: The commentor requested that the OIC provide guidance on reimbursement for a ground ambulance services organization providing transport outside of their geographic service area. They asked the OIC to consider what facilities would be included in this type of transport and how carriers and ground ambulance services organizations should resolve payment disputes should they arise.</p> <p>First prepublication draft: Some commentors supported the initial attempt by the OIC to address mutual aid but expressed concern that the language left open a loophole that would expose consumers to increased costs. They recommended using the rate formula applicable to transports occurring within a ground ambulance services organization's geographic service area.</p> <p>Other commentors noted that the proposed language would prevent public ground ambulance services organizations from continuing to provide mutual aid transports as it would constitute a gifting of public</p>	<p>The OIC carefully considered the comments on this issue. The final rule language does not change the language of the proposed rule.</p> <p>The OIC acknowledges the need for clarity around this type of transport. Mutual aid, while not commonly used, occurs in about 10% of transports, particularly in rural and super rural geographic service areas. Mutual aid is a vital service in areas that otherwise would be without access to ground ambulance services.</p> <p>The intent of SSB 5986 is to first protect consumers from balance billing. Throughout debate on the legislation, the legislature recognized the variability in size, complexity, and funding of ground ambulance services in Washington state. They specifically sought not to hinder access to ground ambulance services, or the operations of ground ambulance services organizations. The OIC recognizes this intent. Throughout the rulemaking process relating to mutual aid, the OIC wanted to ensure that the rule would not impede access to this vital service.</p> <p>In response to comments received regarding the second prepublication draft, the OIC proposed the following rate formula for mutual aid transports in the proposed rule.</p> <p>The rate paid is:</p> <ul style="list-style-type: none"> a) the locally set rate for the ground ambulance services organization that provided the transport; or b) If no locally set rate exists, the lesser of: <ul style="list-style-type: none"> i) 325% of Medicare; or
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<p>funds to residents of other cities and districts.</p> <p>Second pre-publication draft: The OIC received comments similar to those submitted in response to the first prepublication draft. The commentors acknowledged the importance of addressing mutual aid transports but expressed concern that the language still constituted a gifting of public funds to another city or district. Commentors expressed concern over how resident and non-resident rates may impact mutual aid transports as well.</p>	<p>ii) The ground ambulance services organization's billed charges.</p> <p>After receiving comments on various approaches to establishing rates for mutual aid transports, the OIC has determined that the language in the proposed rule most closely aligns with the Legislature's intent to both protect consumers from balance billing for ground ambulance services and not disrupt access to these vital services. OIC recognizes that Washington state has super-rural and frontier communities that struggle to fund and operate ground ambulance services for their residents, given the cost of ground ambulance units and the staffing needed to provide 24/7 access to these services. As noted above, approximately 10% of ground ambulance transports are provided through mutual aid transports. The language of the proposed rule avoids the risk of unintentionally gifting public funds to another agency when mutual aid transport is provided. It allows local governments to enter into mutual aid transport agreements that best meet the needs of their residents and honors the intent of the law to protect consumers from balance billing without disrupting access to ground ambulance services.</p>
<p>The commentor requests that the OIC define "where the transport originated" in WAC 284-43B-027(2)(a) and clarify if this is defined as where the ground ambulance services organization originated from or where the ground ambulance services organization met the patient for treatment.</p>	<p>The OIC appreciates this comment.</p> <p>The language requested by the commentor is no longer needed as the comment pertained to language in the first prepublication draft that is not in the proposed or final rule.</p>

<p>The commentor requested that in WAC 284-43B-027(3), language be added clarifying that an effective date for a new rate cannot be in the past.</p>	<p>The OIC appreciates this comment.</p> <p>Language was added to WAC 284-43B-027(3) stating that a local governmental entity must submit new rate information to the OIC 60 days in advance of the effective date of the new rate.</p>
<p>The commentor objected to the 90-day delay for the rate to take effect, as proposed in WAC 284-43B-027(3). They requested a 30-day window to allow the OIC to update its website and inform the carriers of the new rate.</p>	<p>The OIC appreciates this comment.</p> <p>The 90-day window was reduced to 60 days in an attempt to align more closely with local governmental entities' rate setting processes. This aligns with a November 1 reporting deadline and the January 1 effective date for new rates included in the CR-102 language. The proposed rule includes an exception process in WAC 284-43B-029(3) that allows a 30-day window where exceptional hardship exists.</p> <p>A 90-day window between reporting the new rate to the OIC and the effective date of that rate was requested by carriers to allow them to update their claims processing systems. The 60-day standard in the rule is intended to be a compromise to accommodate legitimate needs of both carriers and ground ambulance services organizations.</p>

<p>The commentor stated that WAC 284-43B-027(1)(a)(ii) does not follow the statute. By omitting “established by” language in this section, the OIC would allow local governmental entities to establish rates by different methods, such as resolution or ordinances.</p>	<p>The OIC appreciates this comment. The OIC did not change the language of the proposed rule.</p> <p>WAC 284-43B-027(1)(a)(ii) addresses contracted rates that are set by local governmental entities with private ground ambulance services organizations. These rates are typically set by contract, which is why the OIC refers to them as “contracted rates” instead of established rates.</p> <p>The OIC also defined “contracted rates” for this section in WAC 284-43B-029(5).</p>
<p>WAC 284-43B-029 Local governmental entity rate reporting to the insurance commissioner.</p>	

<p>Multiple commentors through the CR-101, first prepublication draft, and second prepublication draft requested the OIC establish a standard rate update system and timeline for reporting and publishing locally set rates for ground ambulance services organizations.</p> <p>The comments received on this issue were as follows:</p> <p>CR-101: During the CR-101 phase, commentors expressed a need to either establish an annual reporting deadline or allow a suitable window for health carriers to adjust their internal systems to accommodate new rates being submitted to the OIC.</p> <p>First prepublication draft: Some of the commentors expressed appreciation for the 90-day effective date window for rate updates, but still expressed concern about the volume of rate changes that could be expected throughout the year from 200+ ground ambulance services organizations. They expressed particular concern about having to manually review claims instead of relying on auto-adjudication processes and the increased cost to consumers caused by the manual review process. They also expressed concern about the delay in claims payment this would cause for ground ambulance services organizations. They requested that the OIC issue a technical assistance advisory or memorandum of understanding on how carriers and ground ambulance services organizations handle these rate changes and what to do when a rate dispute arises.</p>	<p>The OIC carefully considered the comments on this issue. The final rule language does not change the language of the proposed rule.</p> <p>The OIC considered multiple options to create a standard rate update system and a timeline that would allow health carriers sufficient advance notice of rate changes while supporting the rate setting processes used by local governmental entities and ground ambulance services organizations.</p> <p>The OIC initially proposed a 90-day window from the time a rate was reported to the OIC to its effective date. This window would allow carriers 90 days to update their claims processing systems to include the new rate.</p> <p>Given the concerns expressed regarding an annual rate reporting date of October 1 with an effective date of January 1, i.e. 90 days, the OIC revised the prepublication draft language to move the rate reporting date to November 1, for an effective date of January 1. OIC acknowledges that the November 1 date does not provide as much time for carriers to update their claims processing systems. However, OIC notes that all ground ambulance services organizations do not update their rates annually. OIC also notes that ground ambulance services organizations tend to have their rate updates take effect on the first of the year (i.e., January 1).</p> <p>In response to concerns expressed by some commentors regarding a fixed rate reporting calendar, the OIC</p>
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<p>Ground ambulance services organizations also commented that the 90-day window would not be ideal, as rate adjustments mid-year may be necessary due to an urgent financial viability hardship experienced by a ground ambulance services organization. They may need a rate to take effect sooner than 90-days to ensure services remain available in their service area.</p> <p>Second prepublication draft: In response to comments received regarding the rate update system and timeline in the first prepublication draft, the OIC removed the initial language proposing a 90-day timeline and proposed an annual submission deadline with an exception process that would allow rates to be submitted in cases of emergent financial risk to a ground ambulance services organization. Commentors generally appreciated this proposed language. They expressed appreciation for creating a standardized format that aligned closely with when rate updates generally occur. They also expressed appreciation for taking into consideration an exception process that would allow emergent rate adjustments mid-year. Some commentors expressed concern regarding October 1 being the reporting deadline and requested that it be moved to November 1. They noted that this more closely aligned with current practice and established local ordinances and codes that rely on the consumer price index issued in October to update their rates.</p>	<p>proposed an exception process should a ground ambulance services organization require a rate update mid-year to maintain its financial viability. The ground ambulance services organization, in addition to demonstrating emergent risk to their financial viability, would need to;</p> <ol style="list-style-type: none"> 1. Follow their existing rate update system established by their local governmental entity, 2. Allow 60-days from the approval of the new rate and its effective date, and 3. Submit the updated rate to the OIC, at least 30-days prior to its effective date.
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<p>The commentors requested that the publicly accessible database maintain a record of submitted rates for at least two years. This would allow interested parties to track rates for the same ground ambulance service organization across multiple years.</p>	<p>The OIC appreciates this comment.</p> <p>The publicly accessible database established by OIC will track and display all rates submitted. Interested parties will be able to access the rate via data.wa.gov, download an excel spreadsheet of the rates, and sort the rates by their effective date.</p> <p>The OIC also will store all rates submitted. Interested parties can submit inquiries regarding a specific ground ambulance services organization's rate history to the OIC Policy and Legislative Affairs Division as needed.</p>
<p>The commentors requested that the OIC establish a notification/alert system to inform carriers and other interested parties when a ground ambulance services organization submits an updated rate to OIC when a rate is updated outside of the proposed annual cycle in WAC 284-43B-029.</p>	<p>The OIC appreciates this comment.</p> <p>The OIC has established a listserv for public-rate updates. It is available for sign-up on the OIC website effective October 21, 2024. Health carriers and other interested parties can sign up for this listserv. When the OIC receives a rate update, it will notify entities that have signed up to receive notices.</p>
<p>Commentors requested that some of the ground ambulance services organizations voluntarily report a sample of their rates so the carriers could begin building a system based on these rates.</p>	<p>The OIC appreciates these comments.</p> <p>The OIC compiled a template of mock data for carriers. The template was for illustrative purposes and meant to show the data fields that would be captured by the rate reporting survey. This was distributed upon request to carriers.</p>

<p>The commentor noted a typo in WAC 284-43B-029(4). It stated that rates must be reported on or before November 1, 2025 for an effective date of January 1, 2026 as an example of the annual rate reporting deadline. The rule should have stated October 1, 2025.</p>	<p>The OIC appreciates this comment.</p> <p>The language was corrected.</p>
<p>The commentor noted that they wanted this entire section removed and did not want the additional reporting requirements for ground ambulance services organizations. They noted that they thought these additional requirements would be burdensome, particularly for small, rural, and volunteer ground ambulance services organizations.</p>	<p>The OIC did not change the language of the proposed rule.</p> <p>The reporting requirements are consistent with RCW 48.49.205, which requires all public ground ambulance services organizations to report their locally set rates to the OIC. The OIC must comply with statutory requirements.</p> <p>To help address the burden of the reporting requirements, the OIC distributed a draft reporting template to ground ambulance services organizations for their review and comment. OIC also circulated a “demonstration” reporting template so that a sample of ground ambulance services organizations could test the reporting system. The reporting template is designed to take no more than approximately 10 minutes to complete. Rather than requiring annual reporting by all ground ambulance services organizations, the rule requires reporting only when there is a change in the organization’s rates.</p>
<p>WAC 284-43B-037 Arbitration proceedings.</p>	

<p>The commentor expressed concern regarding the proposed rate increases for arbitrator fees. The commentor expressed that the existing Washington BBPA arbitration system works well, in part because of the cost and that there are an appropriate number of approved arbitrators, so no rate increase is necessary.</p> <p>The commentor worries that these increased rates will force people into the federal Independent Dispute Resolution (IDR) process, which is currently not functioning well due to a backlog of cases and pending litigation.</p> <p>The commentor recommends removing the rate increase entirely or lowering the rate increase to be commensurate with the federal IDR rates.</p> <p>One commentor expressed concern that the increase in rates would be especially detrimental for ground ambulance services organizations who would just be beginning to use the Washington State BBPA arbitration system.</p>	<p>The OIC did not change the language of the proposed rule.</p> <p>The proposed rate increase was a direct response to approved Washington arbitrators informing the OIC that the work required for a Washington State BBPA arbitration process was not commensurate with the rate they were being paid. They noted they would have difficulty accepting cases if the rate was not adjusted to appropriately meet the work demanded of them in these arbitrations.</p> <p>The OIC examined the difference in workload required between the federal No Surprises Act Independent Dispute Resolution (IDR) process and the Washington State BBPA arbitration process. Based on this information, the OIC proposed rate increases that were more reflective of current market value of these services.</p> <p>Ground ambulance service organizations are not subject to the BBPA arbitration process. A rate formula was set in statute to specifically avoid ground ambulance service organizations having to engage in arbitration for payment of services.</p>
<p>WAC 284-170-205 Behavioral health emergency services provider contracting.</p>	
<p>The commentor strongly supports the language included in this section and the additional protections for behavioral health care providers/facilities.</p>	<p>The OIC appreciates this comment.</p>

<p>The commentors agrees with the language in this section and appreciates the OIC memorializing this in rule.</p>	<p>The OIC appreciates this comment.</p>
<p>The commentator supports the overall language included in the rule. They specifically appreciate that it requires plans to accept crisis and emergency behavioral health service codes, as it will make it easier for behavioral health crisis providers to be paid for the services they provide. They also appreciate the inclusion of ground ambulance transport language in this section.</p> <p>However, the commentator is concerned that the language will impact smaller behavioral health administrative services organizations (BH-ASO) and lead to more work for behavioral health crisis providers. They would like to see BH-ASOs contract directly with carriers to reduce the administrative burden on providers.</p> <p>The commentator also would like to see the addition of language that would require carriers to pay claims outside of a provider's credentialing date given the emergency status of the care received. They are also concerned about the OIC's potential definition of "reasonable payment".</p>	<p>The OIC appreciates this comment. The OIC did not change the language of the proposed rule.</p> <p>Under current law, carriers are required to cover out-of-network behavioral health crisis services. This rule was written to simplify bringing out of network behavioral health crisis providers into carriers' provider networks.</p> <p>While the OIC acknowledges that it would be ideal for BH-ASOs to do the contracting for providers, several BH-ASOs noted they did not have the capacity to handle the contracting requirements. As the rule is written, it requires carriers to first attempt to contract through behavioral health ASOs, but if that is not an option, the behavioral health provider would contract directly with the carrier.</p>

<p>The commentors are concerned that the rule as written is not feasible. They make comparisons to similar contracting issues with Medicaid managed care plans when behavioral health services were integrated into Medicaid managed care contracting. They also expressed concern about an ASO being able to choose not to contract with a carrier and the resulting burden on behavioral health crisis providers. They also inquired about what the OIC would consider a sufficient number of commercial plans to contract with.</p>	<p>The OIC appreciates this comment. The OIC did not change the language of the proposed rule.</p> <p>As detailed above, the OIC understands providers' preference to contract with carriers through the BH-ASOs. The rule directs carriers to first attempt to contract through BH-ASO's and contract directly with behavioral health crisis providers only if a BH-ASO is unwilling or unable to take on the contracting responsibility.</p>
<p>The commentator strongly supports the policy that commercial plans must first try to contact with BH-ASOs to alleviate the burden on providers. They assert that this is a significant step in expanding the number of crisis providers that would be able to accept commercial insurance.</p>	<p>The OIC appreciates this comment.</p>
<p>The commentator strongly supports the policy of requiring commercial plans to accept and reimburse billing codes from the Health Care Authority's Service Encounter Reporting Instructions (SERI). The commentator identifies this as one of the biggest barriers for providers currently billing commercial plans.</p>	<p>The OIC appreciates this comment.</p>

<p>The commentor strongly supports the policy of requiring commercial health plans to accept agency licenses as sufficient credentials rather than requiring each individual provider who bills to be independently licensed. The commentor notes that commercial plans are not set up to accept claims from non-licensed individual providers, which can be a barrier for community behavioral health agencies that often employ clinicians with associate's license or agency affiliated credentials.</p> <p>The commentor also notes this will allow existing clinicians with 10-15 years of experience at a behavioral health agency to bill commercial insurance when they have been previously unable to. This will lead to better utilization of the full behavioral health workforce.</p>	<p>The OIC appreciates this comment.</p>
<p>The commentor notes that in FY2027, Washington state will be implementing a new Medicaid model, Certified Community Behavioral Health Clinics (CCBHCs) statewide. This model requires that CCBHCs provide services to anyone who walks in the door regardless of insurance coverage.</p> <p>The commentor would like to explore how to remove some of the same barriers for outpatient behavioral health services to allow CCBHCs and behavioral health agencies to more easily bill their commercial client's insurance plans.</p>	<p>The OIC appreciates this comment. The OIC did not change the language of the proposed rule because the request is beyond the scope of this rulemaking.</p>

<p>The commentor expressed concern over the implementation of this new rule and how a BH-ASO will know which commercial payor the client is enrolled in. People in crisis are often not able to accurately report their insurance, and crisis providers do their research post-contact with patient.</p> <p>The commentor wanted to know of any reporting timelines that the BH-ASO/commercial plan should consider for this delay.</p>	<p>The OIC appreciates this comment. The OIC did not change the language of the proposed rule.</p> <p>The OIC understands the challenges associated with a behavioral health crisis provider identifying the source of a patient's insurance coverage. This issue is outside of the scope of this rulemaking and has been discussed in a multi-party workgroup working on implementation of E2SSB 1688 (2022).</p>
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Section 6: Implementation Plan

A. Implementation and enforcement of the rule.

As described below, the rule will be implemented through numerous activities at the OIC. The Rates, Forms, and Provider Networks Division will rely on this rule when reviewing health plan filings and carrier network access filings. Questions related to compliance with this rule can be raised and addressed through the form review process and network access review process.

The Consumer Advocacy Program will respond to consumer complaints and give health care providers/facilities/ground ambulance service organizations an opportunity to cure any violations of the rule. Through these complaints, the OIC will monitor the implementation of the rule. This monitoring will identify any need to conduct further stakeholder education regarding the rule. Enforcement will occur when a carrier is determined by the OIC to have violated the requirements of these rules, when a health professional is determined by the applicable disciplinary authority to have violated the requirements of the statute, or when a health care facility/ground ambulance services organization is determined by the Washington State Department of Health to have violated the requirements of the statute.

B. How the Agency intends to inform and educate affected persons about the rule.

Type of Inquiry	Division
Consumer assistance	Consumer Advocacy Program
Rule content	Policy & Legislative Affairs
Authority for rules	Legal Affairs
Enforcement of rule	Legal Affairs
Market Compliance	Company Supervision

C. How the Agency intends to promote and assist voluntary compliance for this rule.

The OIC has and will respond to inquiries from carriers, health care providers, health care facilities, ground ambulance services organizations, BBPA arbitrators, and consumers related to the implementation of SSB 5986 and associated rules. The OIC conducted a series of educational webinars in September and October of 2024. Recordings of these webinars are also available on the OIC website. These activities have and will provide these entities and the public with an opportunity to fully understand and comply with these rules. OIC also stands ready to meet with interested organizations to respond to questions and share perspectives on the implementation of the rule.

D. How the Agency intends to evaluate whether the rule achieves the purpose for which it was adopted.

The goal of this rulemaking is to ensure that SSB 5986 is implemented in accordance with the law. OIC will monitor consumer and health care provider complaints related to balance billing and will conduct additional investigations or enforcement actions where appropriate.

Appendix A

CR-102 Hearing Summary

Summarizing Memorandum	
To:	Mike Kreidler Insurance Commissioner
From:	Sydney Rogalla Presiding Official, Hearing on Rulemaking
Matter No. R 2024-01	
Topic of Rule-making: Relating to Implementation of SSB 5986 and updates to the Balance Billing Protection (BBPA)	
<p>This memorandum summarizes the hearing on the above-named rule making, held on November 26, 2024 at 9:00am via Zoom, over which I presided in your stead.</p> <p>The following agency personnel were present:</p> <ul style="list-style-type: none">• Sydney Rogalla, Health Policy Analyst• Joyce Brake, Policy & Rules Manager• Tracy Thornburg, Administrative Assistant 2• Sharon Daniel, Functional Program Analyst 4• Kim Tocco, Attorney Manager• Simon Casson, Data and Economic Analyst• Mary Tedders-Young, Functional Program Analyst 3 <p>In attendance and testifying:</p> <p>Testified:</p> <ul style="list-style-type: none">• Sean Graham- Washington State Medical Association and the Washington Chapter of the American College of Emergency Physicians• Amy Brackenbury- Washington State Society of Anesthesiologists. <p>In Attendance:</p> <ul style="list-style-type: none">• Katrina Jackson	

- Beau Reitz
- Thalia Cronin
- Carolyn Walker
- Liz Pressley
- Caitlin Aydelott

Contents of the presentations made at hearing:

- Sean Graham testified on behalf of the Washington State Medical Association and the Washington Chapter of the American College of Emergency Physicians. He testified in opposition to the rate increase for arbitrators in WAC 284-43B-037. He noted that he has submitted written comments on this issue as well.
- Amy Brackenbury testified on behalf of the Washington State Society of Anesthesiologists. She concurred with Sean Graham's testimony.

The hearing was adjourned.

SIGNED this 26th day of November, 2024

Sydney Y. Rogalla
Presiding Official