

## OIC Rules Coordinator

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**From:** Joshua Trumbull <josh@wellstrumbull.com>  
**Sent:** Friday, August 8, 2025 2:48 PM  
**To:** OIC Rules Coordinator  
**Subject:** Comments on Proposed Rule Changes

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### External Email

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Hello,

My name is Josh Trumbull. I am both a consumer of insurance products in Washington State and an attorney representing policyholders to ensure their benefits are properly paid. I write to comment on several of the proposed changes to Chapter 284-30 WAC.

#### **WAC 284-30-320(2)'s definition of "claim"**

I support the Office of the Insurance Commissioner's clarification that a "claim" does not require any specialized language beyond asking for benefits or communicating that a loss or harm occurred. In *Welch v. PEMCO*, PEMCO argued before the Court of Appeals that my client's inquiry about repair costs after a covered loss was not a "claim" simply because the letter did not use that magic word. PEMCO maintained its denial of coverage was not a denial of a "claim." Ultimately the court rejected that position, but this rulemaking should make clear that no special terminology is necessary.

However, the final sentence of the proposed subsection reads:

"An inquiry from an insured to their insurance company relating to either the claim process, or coverage available under the policy, or both does not constitute a claim being made."

As drafted, insurers could still assert that no claim exists when an insured inquires about the process or coverage—even while they are simultaneously requesting benefits or reporting a loss. I recommend amending that sentence to read in full:

**"An inquiry from an insured to their insurance company relating to either the claim process, or coverage available under the policy, or both does not constitute a claim being made so long as the insured does not request payment of benefits or communicate that a loss or harm has occurred for which payment may be owed."**

This added language harmonizes subsection (2) with the new "notification of claim" definition in WAC 284-30-320(15)(b).

#### **WAC 284-30-330(4)**

Subsection (4) rightly emphasizes that a reasonable investigation must include an individualized assessment of the loss or damage rather than reliance solely on a database. As a lawyer practicing in Washington, I have been told that repair estimates from local contractors were "too high" compared to an insurer's national cost database, despite the higher cost of living in our area. This change will compel insurers to investigate individual circumstances and lead to fairer claim adjustments.

#### **WAC 284-30-340(2) – Claim File**

This proposal is excellent. Currently, policyholders and their attorneys must sue just to obtain a claim file—

often over the insurer's objections that their internal notes are "trade secrets." Sometimes, after incurring significant expense, we discover the insurer actually had a reasonable basis for denial. It is inefficient and costly to litigate just to see what's in the file.

I suggest one addition: where records "legally privileged" need not be produced, insurers should be required to provide a privilege log. This log would give the insured enough detail to assess whether the privilege claim is valid, preventing overbroad withholding and additional litigation to access non-privileged materials.

### **Preamble Clarifying CPA Applicability**

Clarifying that violations of any of these WAC provisions support the first three elements of a Consumer Protection Act claim is likewise invaluable. Insurers often argue that only violations of WAC 284-30-330 give rise to a CPA cause of action. In one instance, an insurer paid benefits without notifying the insured of possible reimbursement obligations—then later demanded repayment. Though this clearly violated WAC 284-30-350(7), the insurer argued it fell outside the CPA. Your proposed preamble ends that loophole, ensuring all fairness and honesty regulations in this chapter are enforceable under the CPA.

Thank you to the OIC for its ongoing work protecting Washington policyholders. It is reassuring to know that the IFCA notices we submit for our clients are being read and considered.

Sincerely,

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