OIC Rules Coordinator

From: Bekah Young <bekah@searsinjurylaw.com>
Sent: Tuesday, July 29, 2025 5:34 PM
To: OIC Rules Coordinator
Subject: R2025-05 First Prepublication Draft Comment – Unfair Use of FAIR Health and Internal Databases to Undercut Claims

External Email

Good evening:

I'm writing to submit public comment on the proposed rulemaking under R2025-05, initiated by Insurance Commissioner Patty Kuderer, which seeks to clarify and update the standards for claims handling—particularly as it relates to the use of the FAIR Health database and other proprietary pricing tools used by auto insurers in Washington State.

As a personal injury attorney, I routinely see how insurance companies exploit the FAIR Health database and their own internal reimbursement systems (instead of the FAIR Health database discussed in Schiff) to dramatically underpay for medically necessary treatment. These reductions are often arbitrary, lack transparency, and result in patients being forced to shoulder the financial burden of care that was supposed to be covered. FAIR Health, despite being marketed as an "independent nonprofit," uses averages based on undisclosed geographic regions, blending urban and rural billing data in a way that consistently undervalues services in higher-cost areas. Internal insurer-created databases are completely unregulated and unavailable for public scrutiny. However, they are used in the same way. In both cases, insurers cite these databases to cut payments to "80%" or less without offering any individualized medical justification.

To make matters worse, providers are legally restricted under Washington law from waiving these balances for patients. Under WACs and related guidance, waiving a balance due to an insurer's arbitrary underpayment can be deemed an improper rebate—potentially putting the provider's license and compliance status at risk. That means patients are stuck: they receive care they genuinely need, but when insurers fail to pay the full amount, patients are responsible for the remainder. Providers can't ethically or legally waive the balance, even if they want to, leaving injured individuals in financial distress despite having paid for auto insurance specifically to avoid this situation.

This practice doesn't just affect PIP claims. Insurers routinely use these same manipulated billing databases to reduce future treatment valuations and general damages in underinsured motorist (UIM) claims. It's a systemic issue that results in fewer treatment options, more litigation, and reduced access to recovery for everyday Washingtonians.

Insurance coverage should be meaningful. Policyholders pay for protection—and they deserve transparency, fairness, and reimbursement based on actual medical needs, not arbitrary algorithmic cuts. I strongly support rulemaking that curbs these practices and requires full transparency and accountability in how insurers calculate reimbursements. At minimum, insurers should be required to

disclose the data used, the geographic areas considered, and provide a meaningful appeal process before reducing payments.

Thank you for your consideration, and for taking steps to protect patients, providers, and the integrity of the claims process in Washington.

Regards,
Rebekah

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