PROPOSED RULE MAKING

CR-102 (June 2012)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

Agency: Office of the Insurance Commissioner

X **Preproposal Statement of Inquiry was filed as WSR** 16-11-062**; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____**; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

X **Original Notice**
☐ **Supplemental Notice to WSR** _____
☐ **Continuance of WSR** _____

Title of rule and other identifying information: (Describe Subject)

Amendment of WAC 284-30-330(16) to allow insurers to implement procedures for electronic payment of claims.

Insurance Commissioner Matter No. R 2016-12

Hearing location(s):
Insurance Commissioner's Office
TR 120
5000 Capitol Blvd.
Tumwater, WA 98504-0255

Date: September 27, 2016 Time: 10:00AM

Date of intended adoption: September 28, 2016
(Note: This is **NOT** the **effective** date)

Submit written comments to:
Name: Jim Tompkins
Address: PO Box 40260
Olympia, WA 98504-0260
e-mail rulescoordinator@oic.wa.gov
Fax: 360-586-3109 by (date) September 26, 2016

Assistance for persons with disabilities:
Contact: Lori Villaflores by September 26, 2016

TTY (360) 586-0241 or (360) 725-7087

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
The proposed rules will consider amending WAC 284-30-330(16) to allow insurance companies to implement procedures for the processing and payment of claims to include other forms of payment, including but not limited to, electronic funds transfer or a prepaid card.

Reasons supporting proposal: When WAC 284-30-330(16) was adopted in 1987, electronic banking and transfer of funds did not exist to the extent that is available currently. With the availability of new methods of making payments that now exist, insurers could make payments of claims quicker and more efficiently if permitted to establish procedures to make payments in other forms rather than being restricted to just either check or drafts as currently required in WAC 284-30-330(16).

Statutory authority for adoption: RCW 48.02.060 and RCW 48.30.010.

Statute being implemented: RCW 48.30.010.

Is rule necessary because of a:

Federal Law?	☐ Yes	X No
Federal Court Decision?	☐ Yes	X No
State Court Decision?	☐ Yes	X No

If yes, CITATION:

DATE August 23, 2016

NAME (type or print)
Mike Kreidler

SIGNATURE

TITLE
Insurance Commissioner

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 23, 2016
TIME: 9:13 AM

WSR 16-17-125

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None

Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

☐ Private
☐ Public
X Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Jim Tompkins	PO Box 98504-0260 Olympia, WA 98504-0260	(360) 725-7036
Implementation....	Doug Hartz	PO Box 98504-0255 Olympia, WA 98504-0255	(360) 725-7214
Enforcement.....	Doug Hartz	PO Box 98504-0255 Olympia, WA 98504-0255	(360) 725-7214

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:
Name:
Address:

phone ( ) _____
fax ( )_____
e-mail _____

X No. Explain why no statement was prepared.

This proposed rule change allows, but does not require, an insurer to deliver payment by electronic funds transfer, prepaid card or other methods of electronic payment. These options would be in addition to the already allowed options of check or draft. Because this proposed rule is permissive in nature it does not impose any new costs on insurers regulated by this section of the administrative code.

Is a cost-benefit analysis required under RCW 34.05.328?

X Yes A preliminary cost-benefit analysis may be obtained by contacting:
Name: Jim Tompkins
Address: PO Box 40260
Olympia, WA 98504-0260

phone (360) 725-7036
fax (360) 586-3109
e-mail rulescoordinator@oic.wa.gov

☐ No: Please explain:

AMENDATORY SECTION (Amending WSR 09-11-129, filed 5/20/09, effective 8/21/09)

WAC 284-30-330 Specific unfair claims settlement practices defined. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices of the insurer in the business of insurance, specifically applicable to the settlement of claims:

(1) Misrepresenting pertinent facts or insurance policy provisions.

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(4) Refusing to pay claims without conducting a reasonable investigation.

(5) Failing to affirm or deny coverage of claims within a reasonable time after fully completed proof of loss documentation has been submitted.

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear. In particular, this includes an obligation to promptly pay property damage claims to innocent third parties in clear liability situations. If two or more insurers share liability, they should arrange to make appropriate payment, leaving to themselves the burden of apportioning liability.

(7) Compelling a first party claimant to initiate or submit to litigation, arbitration, or appraisal to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in such actions or proceedings.

(8) Attempting to settle a claim for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application.

(9) Making a claim payment to a first party claimant or beneficiary not accompanied by a statement setting forth the coverage under which the payment is made.

(10) Asserting to a first party claimant a policy of appealing arbitration awards in favor of insureds or first party claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(11) Delaying the investigation or payment of claims by requiring a first party claimant or his or her physician to submit a preliminary claim report and then requiring subsequent submissions which contain substantially the same information.

(12) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(13) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(14) Unfairly discriminating against claimants because they are represented by a public adjuster.

(15) Failing to expeditiously honor drafts given in settlement of claims. A failure to honor a draft within three working days after no-

tice of receipt by the payor bank will constitute a violation of this provision. Dishonor of a draft for valid reasons related to the settlement of the claim will not constitute a violation of this provision.

(16) Failing to adopt and implement reasonable standards for the processing and payment of claims after the obligation to pay has been established. Except as to those instances where the time for payment is governed by statute or rule or is set forth in an applicable contract, procedures which are not designed to deliver ((~~a~~)) payment, whether by check ((~~or~~)), draft, electronic funds transfer, prepaid card, or other method of electronic payment to the payee in payment of a settled claim within fifteen business days after receipt by the insurer or its attorney of properly executed releases or other settlement documents are not acceptable. Where the insurer is obligated to furnish an appropriate release or settlement document to a claimant, it must do so within twenty working days after a settlement has been reached.

(17) Delaying appraisals or adding to their cost under insurance policy appraisal provisions through the use of appraisers from outside of the loss area. The use of appraisers from outside the loss area is appropriate only where the unique nature of the loss or a lack of competent local appraisers make the use of out-of-area appraisers necessary.

(18) Failing to make a good faith effort to settle a claim before exercising a contract right to an appraisal.

(19) Negotiating or settling a claim directly with any claimant known to be represented by an attorney without the attorney's knowledge and consent. This does not prohibit routine inquiries to a first party claimant to identify the claimant or to obtain details concerning the claim.