



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 02, 2019
TIME: 9:42 AM

WSR 19-20-112

Agency: Office of the Insurance Commissioner

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR** 19-13-077 ; 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); or**
- Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) Implementation of the Balance Billing Protection Act (Chap. 427, Laws of 2019).

Insurance Commissioner Matter R 2019-4

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|------------------|---------|--|----------|
| November 5, 2019 | 11:30am | Office of the Insurance Commissioner 5000 Capitol Blvd SE Tumwater, WA 98501 | |

Date of intended adoption: November 15, 2019 _ (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Jane Beyer
 Address: PO Box 40260, Olympia, WA 98504-0260
 Email: rulescoordinator@oic.wa.gov
 Fax: 360-586-3109
 Other:
 By (date) November 4, 2019

Assistance for persons with disabilities:

Contact Melanie Watness
 Phone: 360-725-7013
 Fax: 360-586-2023
 TTY: 360-586-0241
 Email: MelanieW@oic.wa.gov
 Other:
 By (date) November 4, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposal includes rules determined by OIC to be necessary to implement and administer the Balance Billing Protection Act. The rules includes:

- Definitions of key terms
- Key consumer protections
- Process related to OON provider claim submission, carrier payment and dispute resolution
- The means through which providers can determine whether a patient's health plan is subject to the requirements of the Act
- When and in what format the OIC consumer notice must be used, and clarification of the provider/facility and carrier transparency requirements of the Act, including providing consumers with sufficient information to understand whether a services they plan to, or have received, is subject to the protections of the Act

- For purposes of enforcement, OIC's interpretation of "pattern of unresolved violations",
- Processes related to self-funded group health plan opt-in, and
- Amendment to WAC 284-170-480 needed to implement section 30 of the Act.

Reasons supporting proposal: The proposed rule provides clarity regarding several aspects of implementation and administration of the Balance Billing Protection Act, which will contribute to successful implementation of the Act and its consumer protections.

Statutory authority for adoption: 48.02.060, §15, Chap. 427, Laws of 2019

Statute being implemented: Balance Billing Protection Act, Chap. 427, Laws of 2019

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

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

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|---------------------------|----------------------------|----------------------------|
| Drafting: | Jane Beyer | P.O. Box 40260 Olympia WA | 360-725-7043 |
| Implementation: | Molly Nollette/Todd Dixon | P.O. Box 40255 Tumwater WA | 360-725-7117/ 360-725-7262 |
| Enforcement: | Toni Hood | P.O. Box 40255 Tumwater WA | 360-725-7050 |

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:
 - Name: Tabba Alam
 - Address: P.O. Box 40260 Olympia WA
 - Phone: 360-725-7170
 - Fax:

TTY:

Email: TabbaA@oic.wa.gov

Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Other:

Date: October 2, 2019

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:

