



Mike Kreidler- Insurance commissioner

As required by

The Washington State Administrative Procedures Act

Chapter 34.05 RCW

Matter No. **R2021-01**

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

Relating to the adoption of

Specifying health carriers in WAC 284-30-595

May 14 2021

TABLE OF CONTENTS

| | | |
|------------|---|-------|
| Section 1 | Introduction | pg. 3 |
| Section 2 | Reasons for adopting the rule | pg. 3 |
| Section 3 | Rule development process | pg. 3 |
| Section 4 | Differences between proposed and final rule | pg. 4 |
| Section 5 | Responsiveness summary | pg. 4 |
| Section 6 | Implementation plan | pg. 4 |
| Appendix A | Hearing Summary | pg. 6 |

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 reason's 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

WSR 20-24-070 created WAC 284-30-595 to provide guidance for companies to use and apply implementation credits. Due to exclusively using the word “insurer” in WAC 284-30-595, Health Care Service Contractors and Health Maintenance Organizations were unintentionally excluded. This rule defines health carriers as a permissible entity within WAC 284-30-595.

Section 3: Rule Development Process

On January 26, 2021, the Commissioner filed a CR-101 pre-proposal public notice of intent to adopt rules. The comment period was open through March 12, 2021. A comment was received.

On February 22, 2021, the Commissioner issued a stakeholder draft of rule language, notified Health carrier stakeholders and requested comment. The comment period was open through March 4, 2021. No comments were received.

On March 9, 2021, the Commissioner issued a second stakeholder draft of rule language, notified Health carrier stakeholders and requested comment. The comment period was open through March 19, 2021. No comments were received.

On April 6, 2021, the Commissioner filed a CR-102 proposed rulemaking. The comment period was open through May 13, 2021. No comment was received.

On May 13, 2021, the Commissioner held a public hearing and was available to hear testimony on the proposed rule. Several people attended the public hearing and no testimony was provided. The hearing summary is in Appendix A.

The responsive summary chart included in Section 5 addresses the comments received.

Section 4: Differences Between Proposed and Final Rule

None

Section 5: Responsiveness Summary

| Stakeholder Comment | Response |
|--|---|
| Does a Third Party Administer for self-funded Health Plans meet the definition of “insurer” or “health carrier”? | No, a third party administrator does NOT meet the definition of insurer or health carrier and is not allowed to offer implementation credits to offset expenses when a policyholder changes coverage from one insurer, or health carrier, to another. |

Section 6: Implementation Plan

A. Implementation and enforcement of the rule.

After the permanent rule is filed and adopted with the Office of the Code Reviser:

- Policy staff will distribute copies of the final rule and the Concise Explanatory Statement to all interested parties through the State’s Govdelivery email system.
- The CR 103 documents and adopted rule will be posted on the Office of the Insurance Commissioner’s website.

Questions will be addressed by Office of the Insurance Commissioner’s staff as follows:

| Type of Inquiry | Division |
|---------------------|---|
| Consumer assistance | Consumer Advocacy |
| Rule content | Policy |
| Authority for rules | Policy |
| Enforcement of rule | Rates, Forms & Provider Network and Legal Affairs |
| Market Compliance | Company Supervision |

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

The agency will meet with and provide assistance to property insurers and any affected consumer.

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

The agency will meet with and provide assistance to property insurers and any affected consumer

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

The agency will monitor submissions from Health carriers relating to documented expenses.

Appendix A

CR-102 Hearing Summary

Summarizing Memorandum

**To: Mike Kreidler
Insurance Commissioner**

**From: David Forte
Presiding Official, Hearing on Rule-making**

Matter No. R2021-01

Topic of Rule-making: Specifying health carriers in WAC 284-30-595

This memorandum summarizes the hearing on the above-named rule making, held at 10am on May 13, 2021, at Zoom Meeting ID: 860 3449 7042 over which I presided in your stead.

The following agency personnel were present:
Jesse Wolff, Bryon Welch, and Michael Walker

In attendance and testifying:

Kevin Smith, Jane Douthit, Karen Farver, Jason Wadsworth, and Skyler Mahjoubian

Contents of the presentations made at hearing:

There was NO testimony given

The hearing was adjourned.

SIGNED this 13 day of May, 2021



David Forte, Presiding Official