CHAPTER 246, LAWS OF 2015
ESSB 5084
RULE-MAKING PROCESS

July 2015

Prepared by OFM Forecasting and Research Division
Topics

› Overview of the WA rule-making process
› ESSB 5084 rules
› Three-phase rule-making for ESSB 5084
› Next Steps
What is a rule?

- A rule (or regulation) is a written policy or procedure adopted by an agency.
- Rules implement, interpret, apply or enforce a state or federal law or court decision.
- State law provides for citizen participation before a rule is approved.
- Washington Administrative Code (WAC) contains the rules to administer state laws (Revised Code of Washington (RCW)).
Three types of rules

**Standard rule** is adopted using the process in the Washington Administrative Procedure Act (APA). ESSB 5084 rules are standard rules.

**Emergency rule** is used when a rule is needed before the standard rule-making process can be completed. No public notice or hearing.

**Expedited rule** is used in specific, limited circumstances. Public notice but no hearing. Any objection results in agency switching from expedited to standard rule process to adopt rule.
Standard rule-making process

Three stages to the standard rule-making process:

1. Pre-notice Inquiry (CR 101)
2. Notice of Proposed rule-making (CR 102) and Hearing
3. Adoption and rule-making Order (CR 103)
**Pre-notice Inquiry (CR 101)**

› Begins the rule-making process

› Provides information and solicits comments

› Other notification and solicitation methods: Web posting, sending notices, meeting with interested parties

› Must be published 30 days prior to filing notice of proposed rule-making
Notice of Proposed Rule-making (CR 102) and Hearing

› Must be filed with full text of proposed rules

› Hearing must be not less than 20 days from publication date of Washington State Register

› Comments provided at hearing or in writing or both
After comment period closes

- Review all comments
- Make changes or explain why
- If substantive change, must schedule a new hearing and comment period
- If no substantive changes, agency may adopt final rules
Adoption and rule-making Order (CR 103)

› CR 103 must be filed with full text of final rules

› Effective date: no sooner than 30 days after filing

› Rules may not be effective prior to 30 days after hearing
Adopting standard, expedited, or emergency WA rules
ESSB 5084

› Enacted in 2015 regular session and effective July 24, 2015

› Amends chapter 43.371 RCW and changes WA-APCD provisions related to:
  » definitions regarding data
  » submission of claims data to the database
  » parameters for release of information
  » reporting and pricing of products
  » responsibilities of the Office of Financial Management and the lead organization
Eleven (11) required rules found in Sections 1, 5, and 7.

An option to adopt one rule regarding expanded data submission. See Section 3 (1).

Section 7(2) places limitation on rules.

The director may not adopt rules, policies, or procedures beyond the authority granted in this chapter.

OFM will adopt rules in three phases.
Phase 1 Rules to implement ACPD

Definitions and data submission deadlines

» Definition of “claims data” including billed, allowed and paid amounts – Section 1(3)

» Definition of “claim files” and “data files” – Section 7(1)(a)

» Deadlines for submission of claim files Section 7(1) b
Security and privacy

› Procedures for ensuring that all data received from data suppliers are securely collected and stored in compliance with state and federal law – Section 7(1)(d)

› Procedures for ensuring compliance with state and federal privacy laws – Section 7(1)(e)
Phase 1 rules to implement WA-APCD

Penalties

› Penalties for failure to submit claim files as required – Section 7(1)(c)
Phase I Timeline: June–January 2016

- June 2015: Preliminary work for rule-making process
- July 2015: Stakeholder meetings
- August 2015: Evaluate information
- September 2015: Rule drafting and stakeholder meetings
- October 2015: Finalize rules for publication
- November 2015: Rules hearing
- January 2016: Rule adoption and begin implementation
Proprietary financial information

Format for the calculation and display of aggregate cost data consistent with this chapter that will prevent the disclosure or determination of proprietary financial information. Section 5(6).
Phase II Rules for data release and fees

Data release

› Procedures for data release Section 7(1)(g)

› Reasons to decline a request for data Section 5(2)

Fees

› Procedures for establishing appropriate fees Section 7(1)(f)
Penalties

› Penalties associated with inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information Section 7(1)(h)
Phase II Timeline: Jan – Sept 2016

1. Preliminary work for rule-making process
2. Stakeholder meetings
3. Evaluate information
4. Rule drafting and stakeholder meetings
5. Finalize rules for publication
6. Finalize rules for publication and hearing
7. Begin implementation
Phase III for amendments & other rules

› Any amendments from Phase I and II rules

› Other rules as may be identified during the rules development process and through stakeholder input
Phase III optional rule

OFM director may adopt a rule to expand claims data submission:

» long term care insurance

» Medicare supplemental

» coverage supplemental to the coverage provided under 55, Title 10 USC

» limited health care services offered by limited health care service contractors. RCW 48.44.035

» disability income

» coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage

» homeowner guest medical

» accident only coverage,

» specified disease or illness-triggered payment insurance

» hospital confinement fixed payment insurance offered as an independent, non-coordinated benefit.—Section 3(1)
Next Steps

› Read background papers for each rule on HCPT website

http://www.ofm.wa.gov/healthcare/pricetransparency

› To receive rule information sign up for Listserv

APCD@Listserv.wa.gov

› If you plan to submit comments during the rule-making process, send an email to

apcd@ofm.wa.gov

› Attend public meetings and complete surveys
For more information, please visit ofm.wa.gov/healthcare/pricetransparency

or contact

Susan Meldazy, HCPT Project Director
360-972-5411