



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Attorney General's Office

- | | |
|---|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 17-05-110; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject) Washington Medicaid False Claims Act Civil Penalty Adjustment. In adopting the False Claims Act (FCA), chapter 74.66 RCW, the legislature imposed civil penalties in RCW 74.66.020(1) of "not less than \$5,500 and not more than \$11,000, plus three times the amount of damages which the government entity sustains because of the act of that person..." for violation of RCW 74.66.020(1) (a) through (g). In RCW 74.66.020(5), the legislature required that the Attorney General adopt a rule to "...annually adjust the civil penalties established in subsection (1) of this section so that they are equivalent to the civil penalties provided under the federal False Claims Act and in accordance with the federal civil penalties inflation adjustment act of 1990."

Hearing location(s): 2425 Bristol Court (Fourth Floor)
Olympia, Washington 98502

Date: June 29, 2017 Time: 10:30 a.m.

Date of intended adoption: July 21, 2017
(Note: This is NOT the effective date)

Submit written comments to:

Name: Douglas D. Walsh, Sr. Assistant Attorney General—
Director, Medicaid Fraud Control Unit
Address: 2425 Bristol Court (Mail Stop 40114) Olympia,
WA 98504
e-mail dougw@atg.wa.gov Subject line: Medicaid Fraud
Control Unit Rule
fax (360) 586-8877 by (date) June 23, 2017

Assistance for persons with disabilities: Contact
Douglas Walsh by 1:00 p.m. June 26, 2017

TTY () _____ or (360) 586-8872

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposed language complies with legislative direction in RCW 74.66.020(5) to, "annually adjust the civil penalties established in subsection (1) of this section so that they are equivalent to the civil penalties provided under the federal false claims act and in accordance with the federal civil penalties inflation adjustment act of 1990" by changing the civil penalties under Washington's Medicaid False Claims Act to reflect inflation adjustments to the federal false claims act civil penalties made pursuant to 31 USC 3729(a), 28 CFR 85.3(a)(9).

Reasons supporting proposal: See purpose above.

Statutory authority for adoption: RCW 74.66.020(5)

Statute being implemented: RCW 74.66.020(5)

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:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 19, 2017

TIME: 8:45 AM

WSR 17-11-087

DATE
5/8/17

NAME (type or print)
Bob Ferguson

Bob Ferguson

TITLE
Attorney General

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

No adverse fiscal impact to the state is expected from the proposed rule.

Name of proponent: (person or organization)

Bob Ferguson, Attorney General

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Douglas D. Walsh, Sr. AAG	Olympia, WA	(360) 586-8872
Implementation.... Douglas D. Walsh, Sr. AAG	Olympia, WA	(360) 586-8872
Enforcement..... Douglas D. Walsh, Sr. AAG	Olympia, WA	(360) 586-8872

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 _____

No. Explain why no statement was prepared.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency expects these rule modifications to have no negative small business impact. The proposed modifications to existing rules do not impose any new or additional costs on any business or industry beyond those associated with compliance with existing statutory obligations currently mandated pursuant to chapter 74.66 RCW.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

Pursuant to RCW 34.05.328(5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rule pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of this rule. In addition, pursuant to RCW 34.05.328(5)(b)(iii) and (v), this proposed new rule adopts without material change Washington state statutes and/or has content that is explicitly and specifically dictated by statute. See description under "Purpose" section.

New Section

WAC 44-02-010 Washington Medicaid False Claims Act civil penalty adjustment.

Pursuant to RCW 74.66.020(5), the civil penalties under RCW 74.66.020(1) are adjusted for violations that occur after November 2, 2015, from not less than \$5,500 and not more than \$11,000 to not less than \$10,957 and not more than \$21,916, plus three times the amount of damages which the government entity sustains because of the act of that person.