



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Office of the Insurance Commissioner

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

X 31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:**

To set forth the definitions, process and procedures related to the data call required for preparing a report to the Legislature on small group health benefit plan and association health plan market performance.

Insurance Commissioner Matter No. R 2010-08

**Citation of existing rules affected by this order:**

Repealed:  
Amended:  
Suspended:

**Statutory authority for adoption:** RCW 48.02.060; chapter 162, laws of 2010

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 11-02-078 on 01/05/11.

Describe any changes other than editing from proposed to adopted version:

1. The type of entry required for providing zip code information was changed from text to numeric.
2. The data field of contract holder is deleted.
3. The time frame for identifying the data call contract person was clarified.
4. The data field for producer compensation and association bylaws was identified as voluntary.
5. The limitation requiring attachments to be in pdf format was removed.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

|          |                       |                        |
|----------|-----------------------|------------------------|
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**Date adopted:** March 23, 2011

**NAME (TYPE OR PRINT)**

Mike Kreidler

**SIGNATURE**

**TITLE**

Insurance Commissioner

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: March 23, 2011**

**TIME: 7:44 AM**

**WSR 11-07-097**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|   |     |           |         |       |          |       |
|---|-----|-----------|---------|-------|----------|-------|
| <b>Federal statute:</b>                 | New | _____     | Amended | _____ | Repealed | _____ |
| <b>Federal rules or standards:</b>      | New | _____     | Amended | _____ | Repealed | _____ |
| <b>Recently enacted state statutes:</b> | New | <u>11</u> | Amended | _____ | Repealed | _____ |

**The number of sections adopted at the request of a nongovernmental entity:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted in the agency's own initiative:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |       |         |       |          |       |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

**The number of sections adopted using:**

|                                       |     |           |         |       |          |       |
|---------------------------------------|-----|-----------|---------|-------|----------|-------|
| <b>Negotiated rule making:</b>        | New | _____     | Amended | _____ | Repealed | _____ |
| <b>Pilot rule making:</b>             | New | _____     | Amended | _____ | Repealed | _____ |
| <b>Other alternative rule making:</b> | New | <u>11</u> | Amended | _____ | Repealed | _____ |

## Chapter 284-199 WAC

### HEALTH INSURANCE MARKET PERFORMANCE DATA CALL RULES

#### NEW SECTION

**WAC 284-199-001 Scope.** This chapter applies to health care service contractors, health maintenance organizations, disability insurers, multiple employer welfare arrangements or any other company that bore risk between 2005 and 2008 for covered lives in the state of Washington, either through a small employer health plan, an association health plan, or any other arrangement to which two or more employers contribute to provide health care for employees. The chapter does not apply to direct patient provider primary care practices as defined in chapter 48.150 RCW.

(1) For purposes of this chapter only, the term "carrier" is used to refer to any entity identified in this chapter.

(2) This chapter explains to carriers the requirements associated with the commissioner's data call pursuant to chapter 172, Laws of 2010.

(3) This chapter is effective until midnight September 30, 2011.

#### NEW SECTION

**WAC 284-199-005 Definitions.** The following definitions apply to this chapter, unless the context clearly requires otherwise.

(1) "Association health plan" means a health benefit plan or policy issued through an association either pursuant to a master contract or through individual or group contracts that predicate eligibility for enrollment in whole or in part on membership in an association. Multiple employer welfare arrangements and member governed groups are included in the definition of association for purposes of this definition.

(2) "Comprehensive medical plan" means a plan providing comprehensive health care services as described in RCW 48.46.020(4), 48.41.110(4) or 48.41.120.

(3) "Data call" means the commissioner's request for information pursuant to chapter 172, Laws of 2010.

(4) "Direct earned premium" means premium as defined in RCW 48.43.005, plus any rate credits or recoupment less any refunds, for the applicable period, whether received before, during or after the applicable period.

(5) "Eligibility" means the standards used to determine whether an applicant may enroll in a health benefit plan.

(6) "Enrollment" means the process, standards and practices used to enroll an applicant under a health benefit plan, regardless of whether the process, standards or practices are imposed by a carrier or an association or an administrative agent on their behalf.

(7) "Enrollee" means a person entitled to coverage for benefits under a health benefit plan, including an enrollee, subscriber, policyholder, beneficiary of a group plan, or an individual covered by any other health plan.

(8) "General administrative expenses" means actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, advertising, general office expenses, taxes, licenses and fees, and all other expenses.

(9) "Health benefit plan" means any policy, contract or agreement offered to provide, arrange, reimburse or pay for a comprehensive medical plan.

(10) "Health plan premium" means the amount agreed upon as a fee for coverage under a comprehensive medical plan for a defined period of time, regardless of the entity responsible for paying the premium or its equivalent, exclusive of cost-sharing amounts paid by enrollees at the time of service.

(11) "Health plan rate" means the rate used to calculate the premium charged, received or deposited as consideration for a health benefit plan or the continuance of a health benefit plan.

(12) "Health status factors" means information about an enrollee or applicant used to evaluate the enrollee or applicant's eligibility for coverage or receipt of benefits under a comprehensive medical plan. Health status factors may include, but are not limited to, information about a person's health status, medical condition, claims experience, receipt of health care, medical history, disability and evidence of insurability such as criminal history or domestic violence.

(13) "Incurred claims" means the sum of the following:

(a) Dollar amount of claims closed with payments; plus

(b) Reserves for reported claims at the end of the current year; minus

(c) Reserves for reported claims at the end of the previous year; plus

(d) Reserves for incurred but not reported claims at the end of the current year; minus

(e) Reserves for incurred but not reported claims at the end of the previous year; plus

(f) Reserves for loss adjustment expense at the end of the current year; minus

(g) Reserves for loss adjustment expense at the end of the previous year.

(14) "PPACA" means the Patient Protection and Affordable

Coverage Act, P.L. 111-148 (2010).

(15) "Resident" means that person enrolled in a health benefit plan or applying for enrollment in a health benefit plan who resides in Washington state or whose employer is based in Washington state.

(16) "Small group health plan" means a health plan issued to a group of two to fifty or a grandfathered health plan issued to a small group of one in effect between 2005 and 2008.

(17) "Submission" means the transfer to and actual receipt by the commissioner of data, documents and information, performed by the carrier or the carrier's third-party expert consistent with the format, method and timing specified by the commissioner.

#### NEW SECTION

**WAC 284-199-010 Acknowledgment.** Carriers must acknowledge receipt of the data call by sending an electronic mail acknowledgment to the commissioner's mailbox: 1714survey@oic.wa.gov. The carrier must include the name, e-mail address and telephone number of the contact person within the organization regarding the data call if it has not already done so pursuant to WAC 284-199-050.

#### NEW SECTION

**WAC 284-199-015 Aggregation of data.** If a carrier determines that an association health plan block of business subject to the reporting requirements under chapter 172, Laws of 2010 covers fewer than ten thousand lives in any of the reporting years, the carrier may contract with a third party to aggregate the information with other carrier data that similarly qualifies.

(1) The third party must respond to the data call within the time frames required of the carrier, and follow the commissioner's instructions for submission. If the commissioner requires resubmission of the data, in whole or in part, the third party must respond within the time frame that the commissioner requires.

(2) No extensions of time may be granted by the commissioner in order to accommodate a carrier's election to report data for a plan on an aggregated basis.

(3) If the plan block of business size changes from year to year, and in any year covers more than ten thousand lives, the plan must report data on a nonaggregated basis for those years when the plan block of business size exceeds ten thousand lives.

(4) The data submitted by a third party aggregating data for

multiple carriers must identify each carrier whose data is included in the submission, and include a statement executed by the carrier attesting to the accuracy of the data submitted by the carrier. The form of the statement is posted on the commissioner's web site.

NEW SECTION

**WAC 284-199-020 Survey instrument.** (1) The data call will be issued in the form of a survey instrument, template for narrative responses and record format instruction, containing questions requiring narrative as well as numeric responses. Carriers must respond to the survey instrument pursuant to the instructions posted on the commissioner's web site.

(2) The commissioner may request information not specifically referenced in chapter 172 (ESHB 1714), Laws of 2010. Carrier submission of data sets requested but not specifically referenced in chapter 172, Laws of 2010 are voluntary in nature, and will be included based on the commissioner's determination that they provide information necessary to respond to the legislature's request for a comparison of the small group and association health plan markets. Data sets that are voluntary will be specifically designated as such in the survey instrument.

NEW SECTION

**WAC 284-199-025 Submission.** Carriers and their third-party consulting experts must comply with the commissioner's data submission standards. Carriers are responsible for the accuracy and completeness of the data for all record groups requested through the data call, and for correcting errors identified during the data validation process in a timely manner, and delivering corrected data on or before the due dates set by the commissioner during the data validation process.

(1) Data, supporting documents and any other information necessary to respond to the commissioner's data call must be submitted to the commissioner by the carrier or their third-party consulting expert at the address specified in the instructions not later than 10:00 p.m. on the ninetieth day after these rules are adopted.

(2) Carriers must use the survey template form prepared and posted on the commissioner's web site when responding to the data call, and follow the instructions, requirements and guidelines for the record layout format also posted on the web site. Carriers may submit additional documents or other explanatory information with

the completed survey template. These additional documents must be submitted to the commissioner in compliance with any other record layout format requirements included in the instructions.

(3) If a carrier submitted information to the United States Department of Health and Human Services pursuant to the data call referenced in 45 CFR 159.120(a), the carrier may comment on any change in experience between 2005-2008, the time frame for data reported under this section, and 2009-2010, the time frame for data reported under the federal interim final rules.

(4) If a carrier elects to submit aggregated data, the aggregated submission statement must be completed and provided to the commissioner by the deadline for submission of the completed survey. The commissioner will post the aggregated submission statement on the agency web site before the deadline for submission of the data.

(5) Carriers must submit data for an individual company as one file, unless they are aggregating. One individual must coordinate, compile and submit the complete package to the administrator electronically, as explained in the instructions posted on the commissioner's web site.

(6) Carriers may submit data in batches for validation if the data is clearly identify in relation to the survey instrument.

#### NEW SECTION

**WAC 284-199-030 Resubmission.** If the commissioner requires a carrier to resubmit data because the data file was submitted in an incorrect format or does not otherwise comply with the specifications in this chapter, the carrier must respond within thirty calendar days of receiving a notice to resubmit.

#### NEW SECTION

**WAC 284-199-035 Validation.** The carrier must validate the completed survey by executing and submitting to the commissioner the statement of data validity posted on the commissioner's web site with the instructions related to this data call pursuant to chapter 172, Laws of 2010.

NEW SECTION

**WAC 284-199-040 Data retention.** Carriers must retain all data, including computer runs produced to support the data call submission, until midnight, September 30, 2011.

NEW SECTION

**WAC 284-199-045 Data fields.** The survey template will require reporting of the following data fields:

| Field | Description  | Type (numeric or text) | Notes                         |
|-------|--|------------------------|-------------------------------|
| (1)   | Type of business   | Numeric and text       |                               |
| (2)   | Lines of coverage  | Numeric or text        | Drop down box                 |
| (3)   | Resident enrollees on first day of year  | Numeric                |                               |
| (4)   | Resident enrollees on last day of year   | Numeric                |                               |
| (5)   | Resident enrollees in plan during year   | Numeric                |                               |
| (6)   | Resident enrollee by type  | Numeric                |                               |
| (7)   | Annual incurred claims   | Numeric                |                               |
| (8)   | Annual net earned premium  | Numeric                |                               |
| (9)   | Annual general administrative expenses   | Numeric                | Voluntary                     |
| (10)  | Health status factors  | Text                   |                               |
| (11)  | Nonresident enrollees  | Numeric                |                               |
| (12)  | Zip codes of nonresident enrollees   | Numeric                |                               |
| (13)  | Zip codes of resident enrollees  | Numeric                |                               |
| (14)  | Washington resident applicants rejected due to health status factors                       | Numeric                |                               |
| (15)  | Eligibility requirements   | Text                   |                               |
| (16)  | Percentage of plan enrollees for whom claims experience was used in setting plan rates     | Numeric                | Association health plans only |
| (17)  | Percentage of plan enrollees for whom employer group size was used in setting plan rates   | Numeric                | Association health plans only |
| (18)  | Required number of employees threshold for employers to qualify for coverage               | Numeric                |                               |
| (19)  | Percentage of plan enrollees for whom health status factors was used in setting plan rates | Numeric                |                               |
| (20)  | Age group band enrollment  | Numeric                |                               |
| (21)  | Average age for each band  | Numeric                |                               |
| (22)  | Line item where enrollment for block of business is reported on annual statement           | Numeric                |                               |
| (23)  | Producer compensation as a percentage of administrative expenses                           | Numeric                | Voluntary                     |

| Field | Description  | Type<br>(numeric<br>or text) | Notes     |
|-------|--|------------------------------|-----------|
| (24)  | Association membership by-laws for reported associations | Text                         | Voluntary |

NEW SECTION

**WAC 284-199-050 Contact person.** Carriers must notify the commissioner of the name of the person within their organization to whom the survey instrument and data call should be sent. The commissioner will contact the carrier through the person identified to communicate the data call, and to obtain answers to questions about the carrier's data submission. The notification must be submitted to 1714survey@oic.wa.gov, and must include the person's name, title, electronic mail address, physical address and telephone number. Carriers must provide the commissioner with notification within one week after the effective date of this chapter.