



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (October 2017)
(Implements RCW 34.05.350
and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 16, 2019

TIME: 11:21 AM

WSR 20-01-118

Agency: Office of the Insurance Commissioner

Effective date of rule:

Emergency Rules

- ☒ Immediately upon filing.
☐ Later (specify) _____

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

- ☐ Yes ☒ No If Yes, explain:

Purpose: Clarify the annual notice requirement for self-funded group health plans **that operate on a calendar year basis** and elect to participate in the balance billing protection act for plan year 2020

R2019-14 BBPA Self-funded group election 2020

Citation of rules affected by this order:

New: WAC 284-43B-071
Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 48.49.110; 48.02.060

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: RCW 48.49.130 requires self-funded group health plans to file an annual notice with the commissioner of their election to participate in the balance billing protection provisions in RCW 48.49.020 through RCW 48.49.040. The law is effective January 1, 2020. Without the commissioner prescribing a specific election process for the 2020 plan year, plans with plan years beginning on a date in January, 2020 will be unable to participate in the balance billing protections until their 2021 plan year. Providers and facilities would continue to balance bill those plan beneficiaries who would otherwise be protected by their self-funded group's election to participate. In order to provide all self-funded plans with the same access to balance billing protection during the first year of Balance Billing Protection Act implementation, the commissioner is permitting the annual election to occur with a shortened notice period, and to permit a partial year election for 2020 only if the plan year begins between January 1 and February 1. Because there is less than 30-days before January 1, the normal notice and comment opportunity would be contrary to the public interest and result in delayed access to these protections for the duration of that comment period.

**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:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted on the agency's own initiative:

New	<u>1</u>	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>1</u>	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Date Adopted: December 16, 2019

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:



NEW SECTION

WAC 284-43B-071 Self-funded group health plan opt-in for plan years beginning between January and February 2020. (1) For self-funded group plans whose plan year begins January 1, 2020, the self-funded group may elect to participate in the provisions of RCW 48.49.020 through 48.49.040 by filing its annual notice of election to the commissioner, using the form available on the oic.wa.gov website, not later than December 27, 2019.

(2) A self-funded group whose plan year begins on or before February 1, 2020, may elect to participate in the protections of RCW 48.49.020 through 48.49.040, pursuant to RCW 48.49.130, by filing the annual notice of election with the commissioner, using the form available on the oic.wa.gov website, not later than January 25, 2020. The commissioner deems the annual filing requirement for such filed notices satisfied on a partial plan year basis for the 2020 plan year.