



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: May 21, 2024

TIME: 11:24 AM

WSR 24-11-131

Agency: Office of the Insurance Commissioner Insurance Commissioner Matter R2024-03

Subject of possible rule making: Implementation of E2SHB 1357 (2023) and SSB 6228 (2024) and updates to prior authorization rules– Prior Authorization Modernization and Substance use Disorder Treatment.

Statutes authorizing the agency to adopt rules on this subject: RCW 48.02.060, 48.43.0161, 48.43.520, 48.43.761, 48.43.762, and section 11 of Chapter 366, Laws of 2024.

Reasons why rules on this subject may be needed and what they might accomplish: In 2023, the Legislature modernized prior authorization processes to prevent delays in care and improve health outcomes. To implement those objectives, the OIC will resume its proposed rulemaking on prior authorization revisions from last year's E2SHB 1357 (RCW 48.43.830) and will include the corresponding mental health-related utilization management requirements from this year's 2SSB 6228 (Chapter 366, Laws of 2024). Multiple Washington Administrative Code provisions within Chapter 284-43 need amendments to be consistent with the enacted legislation. This rulemaking package will recommence at the CR-101 phase.

This effort may include but is not limited to: (1) updating prior authorization review timeframes, clinical review criteria, and prior authorization processes; (2) updating the initial authorization requirements for substance use disorder treatment; and (3) clarifying what may be considered when determining medical necessity for substance use disorder treatment.

This proposed rulemaking will ensure that necessary rules are adopted by the OIC in a timely manner. These proposed rules will facilitate implementation of these laws by ensuring that all affected health care entities understand their rights and obligations under the new laws.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

The OIC is promulgating administrative regulations related to the commercial plans that it regulates. However, there are other state agencies that may be affected by the legislation requiring this rulemaking. The state Department of Health (DOH) and Health Care Authority (HCA) are affected by the new prior authorization legislation. The HCA and OIC also have statutory duties related to the legislation concerning substance use disorder treatment.

Therefore, the OIC will coordinate this rulemaking with the state DOH and HCA by offering notices and opportunities for written comment or feedback with multiple participation forums. The new prior authorization law also requires coordination with the federal Centers for Medicare and Medicaid Services Interoperability and Prior Authorization rule, so the OIC will continue to regularly monitor that rule implementation and guidance.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Please submit comments by June 21, 2024.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

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(If necessary)

Name:
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Additional comments:

Date: May 21, 2024

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:

