



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Department of Labor & Industries (L&I)

Subject of possible rule making: Chapter 296-20 WAC, Medical Aid Rules

Statutes authorizing the agency to adopt rules on this subject: RCW 51.04.020 and RCW 51.04.

Reasons why rules on this subject may be needed and what they might accomplish: The department is required to implement coverage determinations made by the Health Technology Clinical Committee (HTCC) per RCW 70.14.110 and RCW 70.14.120. A rule change is necessary because some L&I WACs are in conflict with HTCC's determinations. This rule-making includes, but may not be limited to, changes in Chapter 296-20 WAC that refer to spinal injections and TENS units.

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

- (1) The Washington state agencies that participate in the HTCC process include the Department of Social and Health Services, the state Health Care Authority, and the Department of Labor and Industries. See RCW 70.14.080(6). These agencies are mandated to implement the Health Technology Assessment (HTA) decisions, unless there is a direct statutory conflict.
- (2) Determinations of the committee must be consistent with decisions made under the federal Medicare program and in expert treatment guidelines, including those from specialty physician organizations and patient advocacy organizations, unless the committee concludes, based on its review of the systematic assessment, that substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology supports a contrary determination.

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

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) :

The possible amendments for this rule-making process began with coverage determinations made by the HTCC.

- (1) The committee determines, for each health technology selected for review, whether the technology is covered, not covered, or covered with conditions.
 - (a) The conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies; and
 - (b) If covered, the criteria which the participating agency administering the program must use to decide whether the technology is medically necessary, or proper and necessary treatment.
- (2) In making a coverage determination, the HTCC considers, in an open and transparent process, evidence regarding the safety, efficacy, and cost-effectiveness of the technology and provides an opportunity for public comment.
- (3) In addition, the public may also participate in the rule-making part of this process by providing written comments during the comment period or giving oral testimony at public hearings.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

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DATE
October 4, 2011

NAME (TYPE OR PRINT)
Judy Schurke

SIGNATURE

TITLE
Director

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