



RULE-MAKING ORDER

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

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

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) October 23, 2015 (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: In 2013, the American Psychiatric Association released the *Fifth Edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*. L&I is amending rules in order to aid in the implementation and consistent use of new *DSM* versions within Washington State's workers' compensation program.

The purpose of this rulemaking is limited to changes necessary to implement the *DSM-5* and include the following:

- Amending existing rules that refer to the *DSM-IV* or its required classification method (axis system) or its assessment instruments, and
- Clarifying how the *DSM-5* is implemented within Title 51 RCW.

Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 296-14-300, WAC 296-20-330 and WAC 296-21-270
 Suspended:

Statutory authority for adoption: RCW 51.04.020, RCW 51.04.030 and RCW 51.08.142

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 15-12-087 on June 2, 2015 (date).
 Describe any changes other than editing from proposed to adopted version:

Clarifying language was added to the following WAC sections: WAC 296-14-300 and WAC 296-21-270

Please see the attachment to the CR-103 for details.

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

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted: September 22, 2015

CODE REVISER USE ONLY

NAME (TYPE OR PRINT)

Joel Sacks

SIGNATURE

TITLE

Director

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 22, 2015
TIME: 9:51 AM

WSR 15-19-139

(COMPLETE REVERSE SIDE)

**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	<u>3</u>	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 in the agency's own initiative:

New	_____	Amended	<u>3</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>3</u>	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	<u>3</u>	Repealed	_____

CR-103 Attachment: Final rule language. The department made clarifying changes to two of the three WACs proposed in the CR-102 in response to public comments. These comments made it clear to the department that stakeholders may not have understood the intent of some of the proposed language. Clarifying changes were made so that the intent of the new language is now clear. The rule language changes proposed in the CR-102 filing are shown in black (i.e., additions underlined, deletions struck through). The clarifying changes made in response to public comments are shown in red.

WAC 296-14-300 Mental condition/mental disabilities

(1) Claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of an occupational disease in RCW 51.08.140.

Examples of mental conditions or mental disabilities caused by stress that do not fall within occupational disease shall include, but are not limited to, those conditions and disabilities resulting from:

- (a) Change of employment duties;
- (b) Conflicts with a supervisor;
- (c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;
- (d) Relationships with supervisors, coworkers, or the public;
- (e) Specific or general job dissatisfaction;
- (f) Work load pressures;
- (g) Subjective perceptions of employment conditions or environment;
- (h) Loss of job or demotion for whatever reason;
- (i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;
- (j) Objective or subjective stresses of employment;
- (k) Personnel decisions;

(l) Actual, perceived, or anticipated financial reversals or difficulties occurring to the businesses of self-employed individuals or corporate officers.

(2)(a) Stress resulting from ~~extreme~~ exposure to a single traumatic event will be adjudicated ~~((with reference to))~~ as an industrial injury. See RCW 51.08.100.

(b) Examples of ~~extreme~~ single traumatic events include: Actual or threatened death, actual or threatened physical assault, actual or threatened sexual assault, and life-threatening traumatic injury.

(c) These exposures must occur in one of the following ways

- (i) Directly experiencing the traumatic event;
- (ii) Witnessing, in person, the event as it occurred to others; or
- (iii) Extreme exposure to aversive details of the traumatic event.

(d) Repeated exposure to ~~aversive details of~~ traumatic events, none of which ~~rises to the level of extreme exposure~~ are a single traumatic event as defined in subsection (2)(b) and (c) of this section, is not an industrial injury (see RCW 51.08.100) or an occupational disease (see RCW ~~51.08.140 and 51.08.142~~). A single traumatic event as defined in subsection (2)(b) and (c) of this section that occurs within a series of exposures will be adjudicated as an industrial injury (see RCW 51.08.100).

(3) ~~Claims based on mental~~ Mental conditions or mental disabilities that specify pain primarily as a psychiatric condition symptom (e.g., somatic symptom disorder, with predominant pain), or that are characterized by excessive or abnormal thoughts, feelings, behaviors or neurological symptoms (e.g., conversion disorder, factitious disorder) are not industrial injuries (see RCW 51.08.100) or occupational diseases (see RCW 51.08.140 and 51.08.142); are not clinically related to occupational exposure.

WAC 296-21-270 ((Psychiatric)) Mental health services.

(1) The following rule supplements information contained in the fee schedules regarding coverage and reimbursement for ((psychiatric)) mental health services.

(2) Treatment of mental conditions to workers is to be goal directed, time limited, intensive, targeted on specific symptoms and functional status and limited to conditions caused or aggravated by the industrial condition. ((Psychiatric)) Specific functional goals of treatment must be identified and treatment must have an emphasis on functional, measurable improvement towards the specific goals.

(3) Mental health services to workers are limited to those provided by psychiatrists, doctoral level ~~clinical~~ ((PhD)) psychologists (e.g., PhD and PsyD), and psychiatric advanced registered nurse practitioners and according to department policy. Psychiatrists and psychiatric advanced registered nurse practitioners may prescribe medications while providing

concurrent care. For purposes of this rule, the term "~~(psychiatric)~~ mental health services" refers to treatment by psychologists, psychiatric advanced registered nurse practitioners, and psychiatrists.

(4) Initial evaluation, and subsequent treatment must be authorized by department staff or the self-insurer, as outlined by department policy. The report of initial evaluation, including test results, and treatment plan ~~((are))~~ is to be sent to the worker's attending provider, as well as to the department or self-insurer. A copy of the sixty-day narrative reports are to be sent to the department or self-insurer and to the attending provider.

(5)(a) All providers are bound by the medical aid rules in chapter 296-20 WAC. Reporting requirements are defined in chapter 296-20 WAC. In addition, the following are required: Testing results with scores, scales, and profiles; report of raw data sufficient to allow reassessment by a panel or independent medical examiner. ~~((Use of))~~ Explanation of the numerical scales is required.

(b) Providers must use the ~~((current))~~ edition of the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association ~~((axis format))~~ designated by the department in the initial evaluation, follow-up evaluations and sixty-day narrative reports~~((, and explanation of the numerical scales are required))~~.

(c) A report to the department or self-insurer will contain, at least, the following elements:

(i) Subjective complaints;

(ii) Objective observations;

(iii) Identification and measurement of target symptoms and functional status;

(iv) Assessment of the worker's condition and goals accomplished in relation to the target symptoms and functional status; and

(v) Plan of care.

(6) The codes, reimbursement levels, and other policies for ~~((psychiatric))~~ mental health services are listed in the fee schedules.

(7) When providing mental health services, providers must track and document the worker's functional status using validated instruments such as the World Health Organization Disability Assessment Schedule (WHODAS) or other substantially equivalent validated instruments recommended by the department. A copy of the completed functional assessment instrument must be sent to the attending provider and the department or self-insurer, as required by department policy or treatment guideline.