



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

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

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 16-10-085 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) Lumbar fusion and Structured Intensive Multidisciplinary Programs (SIMP) rule. L&I is proposing to repeal the SIMP rules - WACs 296-20-12055 through 296-20-12095.

Hearing location(s):

The Department of Labor & Industries
Tumwater Headquarters Building, S119
7273 Linderson Way SW
Tumwater, WA 98501

Date: August 26, 2016 Time: 11:00 a.m.

Submit written comments to:

Name: Jami Lifka
Address: PO Box 44321
Olympia, WA 98504-4321 **OR**
e-mail Jami.Lifka@Lni.wa.gov **OR**
fax (360) 902-6315
Written comments must be received no later than 5 p.m.
August 26, 2016.

Assistance for persons with disabilities: Contact

Jami Lifka by August 1, 2016

TTY at 711 for (360) 902-4941 or directly to (360) 902-4941

Date of intended adoption: November 1, 2016
(Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose of this rulemaking is to bring L&I's rules into compliance with a recent coverage determination by the Washington State Health Technology Clinical Committee (HTCC). The HTCC made a determination that lumbar fusion for uncomplicated degenerative disc disease (UDDD) is no longer a covered procedure. Before this non coverage determination was made, a previous HTCC determination required lumbar fusion candidates with UDDD to attend a SIMP prior to having surgery. This previous coverage determination is contained within the SIMP rules and is now inconsistent with this new HTCC non coverage determination. L&I's payment policies, the lumbar fusion surgical guideline and a medical coverage decision have already been amended effective March 7, 2016 in response to the HTCC lumbar fusion for UDDD non coverage determination.

SIMP program requirements are currently also contained within the department's fee schedules' payment policies and, other than removing the lumbar fusion for UDDD requirement, will remain in effect when the SIMP rules are repealed.

Reasons supporting proposal:

L&I will be reviewing the best available scientific evidence on the treatment of chronic pain, and will work with clinicians to develop and implement policies regarding new medical coverage decisions, medical treatment guidelines, and/or payment policies about chronic pain management to assist injured workers heal and return to work. Repealing the SIMP rules is the most effective and efficient way of removing the SIMP requirement for lumbar fusion for UDDD from existing rules and will also allow L&I flexibility when making future changes in the management of chronic pain in general.

Statutory authority for adoption: RCW 70.14.120,
RCW 51.04.020 and RCW 51.04.030

Statute being implemented: RCW 70.14.120

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 19, 2016

TIME: 10:39 AM

WSR 16-15-075

DATE
July 19, 2016

NAME (type or print)
Joel Sacks

SIGNATURE

TITLE
Director

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Pursuant to RCW 70.14.120, participating agencies, including L&I, must comply with a determination of the HTCC. HTCC made the lumbar fusion for UDDD non coverage determination using an open and transparent process after considering the best available scientific evidence, agency utilization data, and public testimony regarding the safety, efficacy and cost-effectiveness of lumbar fusions for UDDD. The HTCC made its final coverage determination January 15, 2016.

Name of proponent: (person or organization) Department of Labor & Industries

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jami Lifka	Office of the Medical Director	(360) 902-4941
Implementation....Leah Hole-Marshall	Medical Administrator, Office of the Medical Director	(360) 902-4996
Enforcement.....Vickie Kennedy	Assistant Director, Insurance Services	(360) 902-4997

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

A small business economic impact statement (SBEIS) is not required. This rulemaking repeals existing requirements related to medical coverage decisions under RCW 51.04.030 and in part, the repeal is required by statute. Because this rulemaking repeals existing rules and adds no new requirements there are no compliance costs to be analyzed for a disproportionate impact on small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address

phone

fax

e-mail

No: Please explain:

A cost-benefit analysis (CBA) is not required because this rulemaking repeals existing rules and adds no new requirements.