Washington State Department of Labor & Industries

Final Cost-Benefit Analysis

- Psychologists as attending providers in the case of claims solely for mental health conditions.
- Physician assistants as attending providers

WAC 296-20-01002 *Definitions*

WAC 296-20-01501 *Physician assistant rules*

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer?*

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CHAPTER 1: Requirement of the Administrative Procedure Act

The Administrative Procedure Act (APA; Chapter 34.05 RCW) requires that, before adopting a significant legislative rule, the Department of Labor & Industries (L&I) must analyze the probable costs and benefits of the rule, and determine that the benefits are greater than its costs, taking into account both the qualitative and quantitative benefits and costs." [RCW 34.05.328(1)(d)]

Under certain circumstances, a rule or rule component is exempt from this requirement. These exemption criteria are listed in RCW 34.05.328(5)(b) including:

- Emergency rules adopted under RCW 34.05.350;
- Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;
- Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Rules the content of which is explicitly and specifically dictated by statute;
- Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

This cost-benefit analysis has been revised to comply with the APA for amendments in the adopted rule that are not exempt as described above.

CHAPTER 2: Background of the Adopted Rule

Law enforcement officers and firefighters may experience repeated or extreme exposure to aversive details of traumatic events as part of their employment. This can cause posttraumatic stress disorder (PTSD) in some individuals.

The Department of Labor & Industries (L&I) recognizes that these workers often experience reduced quality of life, long-term disability, and at times are unable to return to work. This can be due to reduced access to mental health care. Psychologists can successfully provide that care. However, psychologists cannot be attending providers. As such, they are not able to submit the initial Report of Accident (Workplace Injury, Accident or Occupational Disease) form, the Provider's Initial Report form, the Application to Reopen Claim Due to Worsening of Condition form, or oversee the totality of their care.

This is also a concern for other workers with mental health only claims.

House Bill 1197 (Chapter 171, Laws of 2023) *Defining attending provider and clarifying other provider functions for workers' compensation claims, and adding psychologists as attending providers for mental health only claims* passed in the 2023 legislative session and is effective July 1, 2025. HB 1197 was at the request of L&I.

The primary purpose of this bill is to improve access to care in claims solely for mental health conditions by allowing psychologists to be the attending provider.

In addition, HB 1197 officially recognizes physician assistants as attending providers. Physician assistants have been able to sign all forms that attending providers are required to in Washington's workers' compensation since 2007. In that capacity, they have fulfilled the role of attending providers. There will not be any new administrative changes in that regard.

To implement this statutory change, the Insurance Services Division within L&I is amending sections to the Washington Administrative Code. Those rule amendments will be effective July 1, 2025.

CHAPTER 3: Probable Costs of the Adopted Rule

The estimated costs in this analysis represent only those of complying with the adopted amendment to the rules for the affected parties that are not exempt.

HB 1197 highlights treatment for mental health claims. Several rules are being amended that incorporate documentation and reporting requirements for the purposes of those claims.

WAC 296-20-01002 *Definitions*

Acceptance, accepted condition: The condition being accepted must be specified by one or more diagnosis codes from the current federally adopted edition of the International Classification of Diseases, Clinically Modified (ICD-CM). For mental health conditions, the condition being accepted must also be specified from the edition of the American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders* (DSM) designated by the department.

> **Cost implication**: This language on the use of the DSM is new to that definition but reflects current practice. Similar language is in WAC 296-21-270 *Mental health services* and WAC 296-20-330 *Impairments of mental health.* There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-01002 *Definitions*

*Attending provider repor*t (1): The condition(s) diagnosed including the current federally adopted ICD-CM codes and the subjective and objective findings. For mental health conditions, the report must also include the condition(s) diagnosed using the edition of the American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders* (DSM) designated by the department and the subjective and objective findings for that condition.

> **Cost implication**: This language on diagnosing mental health conditions using the DSM is new to the "attending provider report" but reflects current practice. Similar language is in WAC 296-21-270 *Mental health services* and WAC 296-20-330 *Impairments of mental health.* There is no additional cost to providers and no additional costs on the claim.

Attending provider report (6)**:** If the worker is unable to return to work due to an accepted mental health condition, a provider's estimate of functional status and barriers to work should be included with the report. If further information is needed or required, a mental health evaluation from an approved mental health provider can be requested.

> **Cost implication:** All attending providers are required to comment on return to work issues including the effect of an accepted mental health condition on the claim. This language is new to the "attending provider report" but reflects current practice. There is

also similar language that relates to physical conditions in subsection (5) of this definition. There is no additional cost to providers and no additional costs on the claim.

Consultation examination report (5): A complete diagnosis of all conditions including the current federally adopted ICD-CM codes and the subjective and objective findings. For mental health conditions, the report must also include the condition(s) diagnosed using the edition of the American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders* (DSM) designated by the department and the subjective and objective findings for that condition.

> **Cost implication**: This language on diagnosing mental health conditions using the DSM is new to the "consultation examination report" but reflects current practice. Similar language is in WAC 296-21-270 *Mental health services* and WAC 296-20-330 *Impairments of mental health.* There is no additional cost to providers and no additional costs on the claim.

Doctor: For these rules, means one or more of the following acting within the scope of their professional license: Physician, osteopathic physician, chiropractor, naturopath, podiatric physician, dentist, optometrist, or psychologist.

> **Cost implication:** This language adds psychologists to this list. In addition, it removes the term "attending doctor" from the original title "doctor or attending doctor." As these providers are also listed as an "attending provider" in WAC 296-20-01002 *Definitions* it is duplicative and confusing to have the term "attending" in both places. There is no additional cost to providers and no additional costs on the claim.

Modified work status: The worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature or, for accepted mental health conditions, the ability to engage in modified work, which may include relevant accommodations.

> **Cost implication:** All attending providers are required to comment on return to work issues including the effect of an accepted mental health condition on the claim. This language on mental health conditions is new to the definition of "modified work status" but reflects current practice. There is no additional cost to providers and no additional costs on the claim.

Physician: For these rules, means any person licensed to perform one of the following professions: Medicine and surgery; or osteopathic medicine and surgery.

> **Cost implication:** This language removes the term "attending physician" from the original title "physician or attending physician." As these providers are also listed as an "attending provider" in WAC 296-20-01002 *Definitions* it is duplicative and confusing to have the term "attending" in both places. There is no change to what "physician" means

under these rules. There is no additional cost to providers and no additional costs on the claim.

Regular work status: The worker is physically capable of returning to their regular work. For an accepted mental health condition, the provider should consider mood, behavioral, and/or cognitive factors.

> **Cost implication:** All attending providers are required to comment on return to work issues including the effect of an accepted mental health condition on the claim. This language is new to the definition of "regular work status" but reflects current practice. There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-01501(1) *Physician assistant rules:* Physician assistants may be "attending providers" pursuant to WAC 296-20-01002, under the workers' compensation system.

> **Cost implication**: Physician assistants have been able to sign all documents required by attending providers since 2007. In that capacity, they have fulfilled the role of attending providers. There will not be any new administrative changes in that regard. There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-01501(3)(a) and (3)(b) *Physician assistant rules:* To be eligible to treat and be paid for workers' compensation related services, the physician assistant must obtain a provider number by: (a) Providing the department with their license number and effective date of that license; (b) Providing the name, address, specialty, and active provider number issued by the department of the supervising or collaborating physician(s) on the provider application

> **Cost implication**: This language aligns with Engrossed Substitute House Bill 2041 (Chapter 62, Laws of 2024) *Physician assistant collaborative practice.* The physician assistant will need to provide their license number and effective date of their license instead of a copy of that license. The credentialing process will have this minor change due to ESHB 2041. There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer?* This WAC summarizes some of the reporting requirements in Title 296 WAC in one place in order to assist providers,

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer?*
New language in the introduction:
This list defines the provider types and associated acronyms used in the table: Physician (MD), osteopathic physician (DO), psychologist (PhD/PsyD), chiropractor (DC), naturopath (ND), podiatric physician (DPM), dentist (DDS), advanced registered nurse practitioner (ARNP), physician assistant (PA), and optometrist (OD).

Cost implication: This language is new. It clarifies the acronyms used in the table itself. It includes psychologists (PhD/PsyD). There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer?* This language adds psychologists (PhD/PsyD) to the list of providers that may sign and be paid for completion of the Report of Accident (Workplace Injury, Accident or Occupational Disease) form, the Provider's Initial Report form, and the Application to Reopen Claim Due to Worsening of Condition form.

Cost implication: Every claim will have an attending provider that can complete these forms. There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer? Attending provider report* (1): The condition(s) diagnosed including the current federally adopted ICD-CM codes and the subjective and objective findings. For mental health conditions, the report must also include the condition(s) diagnosed using the edition of the American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders* (DSM) designated by the department and the subjective and objective findings for that condition.

Cost implication: This language on the use of the DSM to diagnose mental health conditions is new to this table but reflects current practice. Similar language is in WAC 296-21-270 *Mental health services* and WAC 296-20-330 *Impairments of mental health.* There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer? Attending provider report* (6): If the worker is unable to return to work due to an accepted mental health condition, a provider's estimate of functional status and barriers to work should be included. If further information is needed or required, a mental health evaluation from an approved mental health provider can be requested.

Cost implication: All attending providers are required to comment on return to work issues including the effect of an accepted mental health condition on the claim. This language is new to this table but reflects current practice. There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer? Consultation examination report* (4): The condition(s) diagnosed including the current federally adopted ICD-CM codes and the subjective and objective findings. For mental health conditions, the report must also include the condition(s) diagnosed using the edition of the DSM designated by the department and the subjective and objective findings for that condition.

Cost implication: This language is new to this table but reflects current practice. Similar language is in WAC 296-21-270 *Mental health services* and WAC 296-20-330 *Impairments of mental health.* There is no additional cost to providers and no additional costs on the claim.

WAC 296-20-06101 *What reports are health care providers required to submit to the insurer? Consultation examination report* (9): A provider's estimate of physical capacities should be included if the worker has not returned to work. If the worker is unable to return to work due to an accepted mental health condition, a provider's estimate of functional status and barriers to work should be included.

Cost implication: This language related to return to work issues for a mental health condition is similar to the language on physical capacities that is currently in subsection (9). This language is new to this table but reflects current practice. There is no additional cost to providers and no additional costs on the claim.

CHAPTER 4: Probable Benefits of the Adopted Rule

Law enforcement officers and firefighters may experience repeated or extreme exposure to aversive details of traumatic events as part of their employment. This can cause posttraumatic stress disorder (PTSD) in some individuals.

L&I recognizes that some of these workers may then experience reduced quality of life, long-term disability, and at times are unable to return to work. This can be due to reduced access to mental health care.

Psychologists are uniquely qualified to provide treatment for these workers when the claims are solely for mental health conditions.

Allowing them to be attending providers can result in increased opportunities for workers to receive proper and necessary treatment much earlier than they have had in the past helping them to recover from these work related mental health conditions.

Other workers with claims solely for mental health conditions would also benefit.

CHAPTER 5: Cost-Benefit Determination

These rule amendments have been assessed for both cost and benefit impact on psychologists and physician assistants in their role as attending providers and for workers with claims that are solely for mental health conditions.

L&I estimates that these rule amendments will impose no new cost on these providers or increased claim costs.

While the impact on claim outcomes is difficult to quantify, workers will have access to quality treatment for mental health conditions much earlier than they have had in the past. This is likely to result in improved quality of life, reduced disability, and a successful return to work.