



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: May 24, 2024

TIME: 11:01 AM

WSR 24-12-018

Agency: DSHS, Economic Services Administration, Economic Services Administration, Division of Child Support

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 24-07-104 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW 19.85.025(4).

Title of rule and other identifying information: (describe subject) The department is amending 388-14A-4900 – Insurers must report claim information to the division of child support and withhold payments if directed. This rulemaking action is to implement SB 5842 (Chapter 126, Laws of 2024), which amends RCW 26.23.037 effective June 6, 2024. As a result of the legislation, the division of child support (DCS) is to minimize the use of social security numbers reported directly to DCS by insurance companies complying with the mandatory reporting requirements of RCW 26.23.037.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 10, 2024	10:00 a.m.	Virtually via Teams or Call in	Hearings are held virtually, see the DSHS website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of intended adoption: Not earlier than 7/11/2024 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name DSHS Rules Coordinator
Address PO Box 45850, Olympia WA 98504
Email DSHSRPAURulesCoordinator@dshs.wa.gov
Fax 360-664-6185
Other

Beginning (date and time) June 5, 2024, 12:00 p.m.

By (date and time) July 10, 2024, by 5:00 p.m.

Assistance for persons with disabilities:

Contact Shelley Tencza, DSHS Rules Consultant
Phone 360-664-6036
Fax 360-664-6185
TTY 711 Relay Service
Email Shelley.Tencza@dshs.wa.gov
Other

By (date) June 26, 2024, by 5:00 p.m.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is amending WAC 388-14A-4900 to implement SB 5842 (Chapter 126, Laws of 2024). SB 5842 amends RCW 26.23.037 to require DCS to minimize use of social security numbers reported directly to DCS by insurance companies. Insurance companies have three different ways they can report insurance claim information to DCS under RCW 26.23.037. A direct report to DCS is one of those ways. The legislation does not change any of the “minimum identifying information” criteria imposed by the office of child support services or the child support lien network, the two other reporting methods. Nor does it prohibit insurance companies from including social security numbers as part of minimum identifying claim information. If an insurer reports claim information directly to DCS and does not include a social security number, DCS would only ask the insurer for the social security number if DCS is unable to identify the individual using full name, date of birth, and current physical address.

DCS proposes to reorder the sections in WAC 388-14A-4900 to better distinguish how insurers comply with RCW 26.23.037 when reporting directly to the DCS special collections unit, as opposed to reporting through the office of child support services or the child support lien network. In the list of minimum identifying information elements, DCS places social security number behind full name, date of birth, and current physical address. DCS also proposes amendments of a technical nature to update the name of the office of child support enforcement to the office of child support services, and other changes recommended by the office of the code reviser’s drafting guidelines.

Reasons supporting proposal: This rulemaking is required to implement SB 5842 (Chapter 126, Laws of 2024). It will ensure insurers have sufficient information about the process to fully comply with the legal reporting requirements.

Statutory authority for adoption: RCW 26.23.037, 26.23.110, 74.08.090, and 74.20A.055

Statute being implemented: RCW 26.23.037.

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

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

Name of proponent: (person or organization) Department of Social and Health Services, Economic Services Administration, Division of Child Support

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting Rules Coordinator	Monica Turnbaugh, DCS	DCS HQ, PO Box 9162, Olympia WA 98507-9162	360-664-5339
Implementation Rules Coordinator	Monica Turnbaugh, DCS	DCS HQ, PO Box 9162, Olympia WA 98507-9162	360-664-5339
Enforcement Rules Coordinator	Monica Turnbaugh, DCS	DCS HQ, PO Box 9162, Olympia WA 98507-9162	360-664-5339

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

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
- TTY
- Email
- Other

No: Please explain: Although this rule meets the definition of a significant legislative rule under RCW 34.05.328(5), the requirement for a cost-benefit analysis does not apply because this rule adopts a state statute [RCW 34.05.328(5)(b)(iii)] and the content of the rule is "explicitly and specifically dictated by statute" [RCW 34.05.328(5)(b)(v)]. This rule is exempt under RCW 34.05.328(5)(b)(vii) – Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.]

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

- This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.
- This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
 - [RCW 34.05.310](#) (4)(b) (Internal government operations)
 - [RCW 34.05.310](#) (4)(c) (Incorporation by reference)
 - [RCW 34.05.310](#) (4)(d) (Correct or clarify language)
 - [RCW 34.05.310](#) (4)(e) (Dictated by statute)
 - [RCW 34.05.310](#) (4)(f) (Set or adjust fees)
 - [RCW 34.05.310](#) (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW [34.05.328\(5\)\(b\)\(vii\)](#).

Explanation of how the above exemption(s) applies to the proposed rule: This rule is exempt under RCW 34.05.328(5)(b)(vii) – Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency’s minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:


- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

Date: May 20, 2024

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-14A-4900 Insurers must report claim information to the division of child support and withhold payments if directed. (1) Insurers must report certain insurance claims to the division of child support (DCS). Within 10 days after opening a tort liability claim for bodily injury or wrongful death, a workers' compensation claim, or a claim under a policy of life insurance, including an annuity, the insurer must report sufficient information to ~~((the division of child support))~~ DCS to enable it to verify whether the claimant or other beneficiary owes child support. A claim is deemed opened when an insurer has sufficient information to:

- (a) Identify the claimant;
- (b) Determine that the claimant is entitled to payment of the insurance claim proceeds; and
- (c) Make such payment. In the case of a claim that will be paid through periodic payments, the insurer must only report the claim before issuing the initial payment.

(2) Insurers can report information:

(a) To the federal office of child support services (OCSS) or the child support lien network (CSLN);

(b) Through an insurance claim data collection organization, which submits the required information to OCSS, CSLN, or the DCS special collections unit within the timeframes and in the manner required by law; or

(c) Directly to the DCS special collections unit, in writing or electronically, if the insurer does not have the capability to report through the above methods.

(3) The information reporting requirements are satisfied so long as the insurer provides minimum identifying information. ~~((Minimum identifying information about the claimant includes:))~~

(a) OCSS and CSLN maintain their own standards for minimum identifying information.

(b) For the purposes of reporting directly to the DCS special collections unit, minimum identifying information about the claim includes:

(i) The claimant's full name and date of birth;

~~((b))~~ (ii) The claimant's ((Social Security number, or if that is unavailable, the claimant's)) current physical address ((and date of birth));

(iii) The claimant's Social Security number, if full name, date of birth, and current physical address are not sufficient for DCS to identify the individual;

~~((e))~~ (iv) The insurer's name;

~~((d))~~ (v) The insurer's claims department address for lien receipt;

~~((e))~~ (vi) The insurer's claim number in the proper format for identification of the claim;

~~((f))~~ (vii) The insurer's claim date of loss;

~~((g))~~ (viii) The adjustor's name;

~~((h))~~ (ix) The adjustor's telephone number;

~~((i))~~ (x) The adjustor's email address; and

~~((j))~~ (xi) The insurer's fax number for receiving lien notices, if one exists.

~~((3) Insurers can report information:~~

~~(a) To the federal office of child support enforcement or the child support lien network;~~

~~(b) Through an insurance claim data collection organization, which submits the required information to the federal office of child support enforcement, the child support lien network, or the division of child support within the timeframes and in the manner required by law; or~~

~~(c) To the division of child support special collections unit in writing or electronically, if the insurer does not have the capability to report through the above methods.)~~

(4) Upon receipt of claims information, ((~~the division of child support~~)) DCS will determine whether a child support debt exists. If so, ((~~the division of child support~~)) DCS will issue a notice to the insurer to withhold payment and remit to ((~~the division of child support~~)) DCS. An insurer is not required to remit payment to ((~~the division of child support~~)) DCS if the notice issued is received after the insurer has disbursed payment on the claim.

(5) ((~~The division of child support~~)) DCS will give any lien, claim, or demand for reasonable claim-related attorneys' fees, property damage, and medical costs priority over any withholding of payment. These costs must be final costs after all reductions have been pursued with interested parties.