



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health

- Preproposal Statement of Inquiry was filed as WSR ; 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).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

WAC 246-08-400, How much can a health care provider charge for searching and duplicating health care records, pursuant to RCW 70.02.010(15), and making technical corrections.

Hearing location(s): Department of Health  
111 Israel Road SE, Room 158  
Tumwater, WA 98501

Date: 6/5/2013

Time: 9:00 AM

Submit written comments to:

Name: Sherry Thomas  
Address: Department of Health, P.O. Box 47850, Olympia, WA 98504-7850  
e-mail: <http://www3.doh.wa.gov/policyreview/>  
fax 360-236-4626 by (date) 06/05/2013

Assistance for persons with disabilities: Contact

Sherry Thomas by 05/29/2013

TTY (800) 833-6388 or () 711

Date of intended adoption: 06/06/2013

(Note: This is NOT the effective date)

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

The purpose is to adjust the maximum fees health care providers are allowed to charge for searching and duplicating health care records. The adjustment is legislatively required to occur every two years, and must be based on the change in the Consumer Price Index (CPI) for the Seattle-Tacoma area (see attachment A). In addition, we are making technical corrections to subsection (4) to refer to the full HIPAA regulation citation, and to refer to "health care" provider and "health care" records, rather than "medical" provider and records to make the references consistent with the authorizing statute .

Reasons supporting proposal:

The proposed rule sets reasonable fees providers are allowed to charge for cost recovery. The adjustment is required by law to occur every two years. The CPI for the Seattle-Tacoma area changed from 226.862 in December 2010 to 237.993 in December 2012, which is a 4.9% percent increase.

Statutory authority for adoption:

RCW 70.02.010(15) and RCW 43.70.040

Statute being implemented:

RCW 70.02.010(15)

Is rule necessary because of a:

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

If yes, CITATION:

DATE 04/11/2013

NAME (type or print)

Mary C. Selecky

SIGNATURE

TITLE

Secretary

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: April 12, 2013

TIME: 9:28 AM

WSR 13-09-042

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

None

**Name of proponent:** (person or organization) Department of Health

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Sherry Thomas	111 Israel Road, Tumwater, WA 98501	360-236-4612
Implementation....Sherry Thomas	111 Israel Road, Tumwater, WA 98501	360-236-4612
Enforcement.....Sherry Thomas	111 Israel Road, Tumwater, WA 98501	360-236-4612

**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.

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 (SBEIS) was not prepared. Under RCW 34.05.310(4)(e), a SBEIS is not required for a proposed rule that sets or adjusts fees or rates pursuant to legislative standards. In addition, the technical changes to correct the HIPAA citation and clarify wording are exempt under RCW 34.05.310(4)(d) because they clarify language without changing its effect.

**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: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards, and (5)(b)(iv) exempts changes to clarify language of a rule without changing its effect.

**Attachment A**  
**Consumer Price Index - All Urban Consumers**  
**Original Data Value**

**Series Id:** CUURA423SA0  
**Not Seasonally Adjusted**  
**Area:** Seattle-Tacoma-Bremerton, WA  
**Item:** All items  
**Base Period:** 1982-84=100  
**Years:** 2010 to 2012

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2010		226.08		226.51		226.11		227.64		227.25		226.86	226.69
		5		3		8		5		1		2	3
2011		229.48		231.31		233.25		233.81		235.91		234.81	232.76
		2		4		0		0		6		2	5
2012		235.74		237.93		239.54		240.21		241.35		237.99	238.66
		4		1		0		3		5		3	3

**Consumer Price Index - All Urban Consumers**  
**12-Month Percent Change**

**Series Id:** CUURA423SA0  
**Not Seasonally Adjusted**  
**Area:** Seattle-Tacoma-Bremerton, WA  
**Item:** All items  
**Base Period:** 1982-84=100  
**Years:** 2010 to 2012

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2010		0.6		0.3		-0.5		0.2		0.4		0.6	0.3
2011		1.5		2.1		3.2		2.7		3.8		3.5	2.7
2012		2.7		2.9		2.7		2.7		2.3		1.4	2.5



AMENDATORY SECTION (Amending WSR 11-12-027, filed 5/24/11, effective 7/1/11)

**WAC 246-08-400 How much can a ~~((medical))~~ health care provider charge for searching and duplicating ~~((medical))~~ health care records?** RCW 70.02.010(15) allows ~~((medical))~~ health care providers to charge fees for searching and duplicating ~~((medical))~~ health care records. The fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

(a) No more than one dollar and ~~((four))~~ nine cents per page for the first thirty pages;

(b) No more than ~~((seventy-nine))~~ eighty-two cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge a ~~((twenty-three))~~ twenty-four dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, ~~((2011))~~ 2013, through June 30, ~~((2013))~~ 2015.

(4) HIPAA covered entities ~~((:—See))~~ shall refer to HIPAA regulation ~~((Section))~~ 45 C.F.R. 164.524 (c)(4) ~~((to determine applicability of this rule))~~.