Washington State Department of
Labor & Industries

Preliminary Cost-Benefit Analysis

WAC 296-20-12501 Physician assistant billing procedure

October 2024

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Introduction

Administrative Procedure Act Requirements

The Administrative Procedure Act (APA) 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)]

RCW 34.05.328(5)(c)(iii) defines a "significant legislative rule" as a rule, other than a procedural or interpretive rule, that:

- Adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction;
- Establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- Adopts a new, or makes significant amendments to, a policy or regulatory program.

Under certain circumstances, a rule or rule component is exempt from this requirement.

Proposed Rules

The Medical Aid Rules under Chapter 296-20 WAC contain the administrative rules for medical and other services rendered to workers under the Industrial Insurance Act, Title 51 RCW. Under WAC 296-20-12501, physician assistants are paid 90% of the value listed in L&I's fee schedules for services rendered to injured workers. L&I has determined that this limitation is no longer reasonable, given the following facts:

- When the pay differential was enacted, physician assistants could only work under the supervision of another physician. With the passage of Engrossed Substitute House Bill 2041 (ESHB 2041), Chapter 62, Laws of 2024, physician assistants may now practice autonomously in collaborative agreements with other providers.
- L&I allows physician assistants to be Attending Providers, which means they can complete certain forms and direct a worker's care. No other Attending Provider is paid using a differential, and all other Attending Providers can practice independently.

The proposed change will repeal WAC 296-20-12501 in its entirety. This will remove the pay differential. The remaining provisions of WAC 296-20-12501 are already located in other WACs or in L&I's payment policies.

Background

The current rule requires physician assistants to be paid at 90% of the value listed in the fee schedule for services they perform. This differential was put in place when physician assistants were exclusively supervised by other providers and could not practice medicine on their own. With the passage of ESHB 2041 in 2024, physician assistants may now practice autonomously in collaborative agreements with other providers. Given this change, it no longer makes sense to pay physician assistants less than other providers.

The remaining rules and parameters for billing procedure are either rendered inaccurate by ESHB 2041, already appear in payment policy, or can be reflected in payment policy. Billing procedures are commonly published as part of payment policies rather than WACs. No other WACs would be rendered inaccurate by the repeal of this one. Nothing in this WAC must by necessity appear in rule; therefore, it makes the most sense to repeal it in its entirety and move any necessary information physician assistants may need to payment policy, where it can be explained in greater detail and updated to reflect changes.

Probable Costs of the Proposed Rule

If L&I removes the 90% pay differential, costs for physician assistant (PA) services are predicted to rise by 10% as a result of providers billing for and being paid at 100% of fee schedule rates. The cost estimates are outlined below (based on billing data from 2016-2023):

Average annual spend on PA services (current)	$25,680,548.91
Average % of overall Medical Aid Fund spent on PA services (current)	4.31%
Average annual spend on PA services without pay differential (estimated)	$28,248,603.80
Average % of overall Medical Aid Fund spent on PA services without pay differential (estimated)	4.72%

This rate change would cause an increase of approximately $2,568,054.89 annually, which represents a 0.41% increase in the overall portion of the Medical Aid Fund spent on physician assistants.

Probable Benefits of the Proposed Rule

There are several expected benefits of repealing WAC 296-20-12501. These are, in brief:

- **Access to care.** By paying physician assistants at a higher rate, more of them may feel encouraged to treat injured workers, thus improving workers' ability to find a provider. Increasing access to care can reduce delays in medical treatment and time loss payments, resulting in reduced claim costs and helping workers heal and return to work more quickly.
- **Competitive rates.** L&I has a vested interest in ensuring providers want to work with us. Paying physician assistants at market rate allows us to compete with other insurers and may help retain or attract providers.
- **Consistent pay for Attending Providers.** Our rates of pay for Attending Providers should be the same across all provider types. This change will create that alignment.

Cost-Benefit Determination

As outlined above, the probable benefits of this rule are greater than the probable costs.

Physician assistants provide essential services to workers, both as Attending Providers and as concurrent care providers. Having more of them available for workers can reduce claim costs by helping workers heal and return to work quickly. As such, the benefits outweigh the small increase in cost to the Medical Aid Fund.