

Chapter 284-90 WAC
RULES PERTAINING TO AIDS

Last Update: 10/4/00

WAC

284-90-010 Purpose.
284-90-020 Insuring procedures relating to AIDS.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

284-90-030 Policy reserves—Annual financial statements. [Statutory Authority: RCW 48.02.060, 48.44.050 and 48.46.200. WSR 86-21-065 (Order R 86-5), § 284-90-030, filed 10/15/86.] Repealed by WSR 00-20-105 (Matter No. R 2000-07), filed 10/4/00, effective 11/4/00. Statutory Authority: RCW 48.02.060, 48.30.010, 48.44.050, 48.46.200, 48.01.030, 48.05.250, 48.18.110, 48.18.480.

WAC 284-90-010 Purpose. (1) The purpose of this chapter is to assure nondiscriminatory treatment of insureds and prospective insureds by establishing minimum standards insurers must meet with respect to acquired immune deficiency syndrome (AIDS) and its related conditions. Related conditions include a positive testing for the Human Immunodeficiency Virus (HIV).

(2) The insurance code prohibits unfair discrimination between insureds having like risk and exposure factors. The practical effect of the law is to require grouping of insureds into classes of like risk and exposure and charging a premium commensurate with the risk and exposure. This assures the equitable treatment of each class of insureds in the sense that the premium charge is reasonably related to the risk assumed by the insurer and that no class of insureds supports (or is supported by) another class of insureds. For example: Insureds with a heart condition should not subsidize (or be subsidized by) insureds with AIDS or diabetes; policies issued on a standard basis should not be surcharged to support those issued to insureds suffering from an ailment. To properly classify such prospective insureds, insurers must ask appropriate questions on application forms and may require reasonable testing of prospective insureds, when health underwriting is not prohibited by rule or statute.

[Statutory Authority: RCW 48.02.060, 48.30.010, 48.44.050, 48.46.200, 48.01.030, 48.05.250, 48.18.110, 48.18.480. WSR 00-20-105 (Matter No. R 2000-07), § 284-90-010, filed 10/4/00, effective 11/4/00. Statutory Authority: RCW 48.02.060, 48.44.050 and 48.46.200. WSR 86-21-065 (Order R 86-5), § 284-90-010, filed 10/15/86.]

WAC 284-90-020 Insuring procedures relating to AIDS. (1) AIDS and its related conditions are diseases and must be considered as such under the insurance laws of this state. Underwriting considerations must be consistent with the underwriting considerations applied to other diseases. Prospective insureds must be accepted or rejected or rated standard or substandard on the basis of bona fide and substantiated statistical differences in risk or exposure.

(2) Questions about AIDS and related health conditions on applications for insurance must be in clear and understandable language and must lend themselves to the placement of applicants in the proper class of insureds. Questions which are ambiguous or misleading are prohibited.

(3) Testing of insurance applicants must be administered on a nondiscriminatory basis. If a prospective insured is to be declined or

rated substandard because of HIV infection, such action must be based on a Western Blot Test or any United States Food and Drug Administration approved confirmatory test of equal or greater accuracy. Testing procedures of lesser accuracy may be used on a nondiscriminatory basis for underwriting purposes, but a prospective insured may not be declined or rated substandard solely on the basis of results from such test(s).

(4) There are several aspects of the disease AIDS which may create unforeseen claim settlement problems under life insurance, loss of time, and medical coverages. The likelihood of the claimant incurring medical expenses from several different symptoms of AIDS or one of its related conditions may make it difficult to determine when the disease first manifested itself. The long incubation period along with the concurrent and aggravating ailments may create problems with the application of the preexisting conditions clause and the incontestable provision, as well as the rules which determine a new spell of illness. The benefit provision, including any extended benefit provision, will determine the extent of claim payments if the disease manifested itself while the policy was in force but continued after expiration of coverage or termination of the contract. Such matters, and others unique to the disease of AIDS and its related conditions, must be resolved in a manner consistent with the settlement of claims resulting from other diseases.

[Statutory Authority: RCW 48.02.060, 48.30.010, 48.44.050, 48.46.200, 48.01.030, 48.05.250, 48.18.110, 48.18.480. WSR 00-20-105 (Matter No. R 2000-07), § 284-90-020, filed 10/4/00, effective 11/4/00. Statutory Authority: RCW 48.02.060, 48.44.050 and 48.46.200. WSR 86-21-065 (Order R 86-5), § 284-90-020, filed 10/15/86.]