



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Retirement Systems

Permanent Rule Only

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose: Clarifies how the department processes stakeholders' petitions for review of administrative decisions

Citation of existing rules affected by this order:

Repealed: WAC 415-04-010
 Amended: WAC 415-04-040
 Suspended:

Statutory authority for adoption: 41.50.050 (5)

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-09-054 on April 15, 2016 (date).
 Describe any changes other than editing from proposed to adopted version: No changes from the proposed version.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted:

May 25, 2016

NAME (TYPE OR PRINT)

Marcie Frost

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 25, 2016

TIME: 4:43 PM

WSR 16-12-051

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>1</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

WAC 415-04-040 What will the department do after receiving my petition? (~~(1) A petition examiner will review your petition.~~

~~(2) Within fourteen days from the date that you file a petition with the department, the petition examiner will determine whether you have a sufficient stake in the outcome of the proceeding to have the department consider the issues in your petition.~~

~~(a) If the petition examiner determines that you **do not** have a sufficient stake in the outcome, the petition examiner:~~

~~(i) May refer the matter back to the plan administrator for further investigation.~~

~~(ii) Will notify you of this decision within fourteen days of the date you file the petition. You may appeal this decision to the presiding officer under WAC 415-04-050.~~

~~(b) If the petition examiner determines that you **do** have a sufficient stake in the outcome, the petition examiner:~~

~~(i) Will notify interested parties, such as the member, current or former employer(s), designated beneficiaries, former spouse or the department, that you filed a petition;~~

~~(ii) Will request that the interested parties submit any written response to the petition no later than twenty days from the date of receipt of the notice;~~

~~(iii) May extend the time limit for response if the interested party shows a good reason to need more time.~~

~~(3) The petition examiner may request additional information at any time.~~

~~(4) The petition examiner will forward a copy of an interested party's response to you.~~

~~(a) You will have ten days to reply.~~

~~(b) The petition examiner may extend your time to respond if you demonstrate that you need more time for good reason.~~

~~(c) If an extension is not granted and you do not reply within ten days, you waive the right to reply.~~

~~(5) The petition examiner will issue a written decision within sixty days of:~~

~~(a) The end of your final period to reply under subsection (4) of this section; or~~

~~(b) Receipt of additional information from the department or the office of the attorney general necessary to make a decision.~~

~~(6) In the written decision, the petition examiner will state facts and sources of law used to make the decision. The petition examiner will send a copy to you and to the other parties.~~

~~(7) The petition examiner may refer the petition back to the plan administrator for an administrative determination without issuing a petition decision if:~~

~~(a) The petition adds new issues or facts that have not been addressed in the plan administrator's final determination; or~~

~~(b) The plan administrator did not have access to a petition decision or final order of the department that would have changed the outcome of the administrative determination.)) The department's petition examiner will:~~

(1) Acknowledge receipt of your petition;

(2) Notify persons or entities potentially impacted by the outcome of the process, such as the member, current or former employ-

er(s), designated beneficiaries, or former spouse, that you filed a petition;

(3) If deemed necessary or useful, request additional information at any time;

(4) Issue a written decision within ninety days of the date the department received your petition, unless that deadline is extended for good cause; and

(5) If deemed necessary or useful, and without issuing a petition decision, refer the petition back to the appropriate administrator for a new determination if:

(a) The petition adds new issues or facts that have not been addressed in the plan administrator's final determination; or

(b) The administrator did not have access to information that may have changed the outcome of the administrative determination.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-04-010 Definitions.