Summary of Stakeholder comments and OFM response to comments

Stakeholder comments	OFM response to comments
WAC 82-75-020 Definitions required by chapter 43.371 RCW	
Premera Blue Cross From a structural perspective, we suggest giving each definition its own subsection number; as an example, this would make the "Allowed amount" definition to be WAC 82-75-020(1). This is consistent with definitions elsewhere in the code, makes references easier, and also would seem to fit better with the (a) and (b) subsections in proposed section -030.	The Office of the Code Reviser recommends that definition sections do not include numbering for each definition. This makes amendments to the rule more difficult because the numbering changes that have to be made if definitions are added or removed from the section. Instead, the terms defined are listed in alphabetical order to make it easier to find a definition.
SEIU Healthcare 1199NW (SEIU) 1. To illuminate patients' experience as consumers of healthcare, the database must capture patient cost-sharing. However, the proposed rule is silent on whether (or how) patient cost-sharing will be included in the database. a. The definition of "claim file" does not explicitly list patient cost-sharing. (WAC 82-75-020) b. The definition of "paid amount" explicitly excludes member cost-sharing (copayments, coinsurance, deductibles, other payment sources), but the rule does not specify where these items will be included. (WAC 82-75-020)	The claim file definition is a high level description of the data set to be included in the file submission. The data elements that comprise the claim file including data elements for coinsurance, deductible, and copayments will be outlined in the data submission guide (DSG). The definition of paid amount rightly excludes member cost sharing payments because the term only applies to the actual dollar amount paid for a health care service by the carrier, TPA, or the State Labor and Industries program. WA-APCD will contain patient cost-sharing data. The rule includes definitions for the standard patient cost-sharing terms used in the health care industry--coinsurance, copayment, and deductible. These terms will be included in the DSG and assigned a data element identifier and description that will enable data supplier to submit the appropriate data. The details of all the cost sharing agreement between subscribers and their health plans will not be included in the WA-APCD.

Stakeholder comments	OFM response to comments
Chapter 82-75-030 Additional definitions authorized by chapter 43.371 RCW.	
Premera Blue Cross (Premera) 1. From a structural perspective, we suggest giving each definition its own subsection number. 2. The definition of "Member" is too narrow, as it refers solely to "insured" persons on a "policy." This suggests, incorrectly, that the term is not applicable to enrollees under a health care service contract or HMO. As an example, neither Premera nor Life Wise Health Plan has insured subscribers, nor do we issue policies. The definition of "Subscriber" creates similar concerns, although it attempts to bring in "member of a health benefit plan"- but given the wording of these definitions, the provisions are less than clear. We note that WAC 284-43-130 defines "covered person" or "enrollee" in a comprehensive fashion, and we recommend that your rule be consistent with the wording and concept, and perhaps merely cross-reference that existing definition. We also recommend the addition of a definition of the term "Data supplier."	1. The Office of the Code Reviser recommends that definition sections do not include numbering for each definition. This makes amendments to the rule more difficult because of the numbering changes that have to be made when definitions are added or removed from the section. Instead, the terms defined are listed in alphabetical order to make it easier to find a definition. 2. OFM agrees that the definition as written does not include all the persons that it was intended to include. The definition in WAC 284-43-130 (5) is a better representation of the meaning of "member" than the suggested statute. Change was made to mirror that definition, which provides: "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan. 3. We do not believe that including "subscriber" in the definition will be a problem. However we will work with Premera and similarly situated plans and refine the definition in the DSG as needed. 4. OFM does not believe "data supplier" needs to be defined at this time. OFM will consider defining this term during a future phase of this rulemaking process.
Cambia Health Solutions (Regence) In the rule, the switch from "WA resident" to "WA covered person" seems to broaden the number of claims that will be submitted to include out-of-state members on fully-insured policies. I am unsure if OFM intends to have this impact.	OFM understands that there may be more claims from out-of-state members under this definition. OFM will address this in the data extracts by including or excluding them. Using situs of the policy instead of residency is consistent with what other state APCDs are doing. We can adjust the definition and requirements after the state has some experience with the WA-APCD to determine if this is a problem.

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Chapter 82-75-030 Additional definitions authorized by chapter 43.371 RCW.	
SEIU 1. To illuminate patients' experience as consumers of healthcare, the database must capture patient cost-sharing. However, the proposed rule is silent on whether (or how) patient cost-sharing will be included in the database. c. Definitions of "coinsurance", "copayment" and "deductible" should result in data on what patients actually paid – rather than what patients are expected to pay based on plan design specifications. (WAC 82-75-030) 2. The database will include data from a variety of data suppliers, including self-insured plans. It is not clear that the definition of "claim" is consistent with this intent. a. Would "a request or demand on a carrier" also capture claims from self-insured plans? (WAC 82-75-030)	1. The WA-APCD will not be able to tell the difference between what was actually paid versus the plan determined amounts. No change is needed at this time. 2. We agree that the definition as written does not include all the entities intended to be included. The definition of "claim" is amended to include third-party administrators and the state labor and industries program. All three receive claims and are data suppliers to the APCD. Third party administrator's (TPA) may be the data submitter for mandated data suppliers as well as the voluntary data suppliers. If we don't include TPA and LNI the definition may inadvertently exclude claims from them. a. Self-insured are voluntary data suppliers. If TPA is added to the definition of claim self-insured would be included if they volunteer.
Chapter 82-75-050 Data submission schedule	
Premera We still believe that an affirmative acceptance, within a specified amount of time, by the lead organization of a data supplier's submission would be a desirable feature, because it will avoid assumptions being made based on an absence of information.	We agree that an affirmative acceptance may be desirable. However, we do not believe this requirement needs to be in rule at this time. OFM will work with the lead organization to have the DSG include directions that the data aggregator send to the data supplier a "Data received successfully" message when a data submission is Ok and an error message when a data submission is not received successfully.

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Chapter 82-75-070 Data submission guide	
Premera The Companies appreciate the provisions in this section, especially those pertaining to the data suppliers' ability to review the draft submission guide, and the lead time for changes to the guide.	Change was made in response to comments received during the rule development phase. No other changes are needed.
Chapter 82-75-080 Waivers and extensions	
Kaiser Foundation Health Plan of the Northwest Concerned that the change to the rules on waivers and extensions that require data providers to petition the lead organization (LO) for these exceptions could create a conflict of interest for the LO. The review and approval of such requests should lie only with OFM. Appreciates the important role of the LO in the administration of the APCD and will work with the LO in the developing the reporting process. The LO will be closest to the data submissions. It will have the dual responsibility of administering data collection and creating a self-sustaining business model. Unavoidable issues data providers encounter may be judged in the context of meeting its business need, rather than the objective collection of accurate data. There are legitimate reasons a data provider may request a waiver or exception. Appreciate OFM's openness to the concerns.	We appreciate the concerns raised. We do not believe there needs to be a change in rule at this time to address these concerns. We have addressed the issues in an alternate manner as outlined below. 1. OFM has the final approval authority over requests for waivers and extensions, which removes the conflict of interest problem. 2. There will be a publication explaining the waivers and extensions with a list of common reasons for granting them**.** 3. The lead organization will be directed to follow the publication guidelines for more routine extension requests when reviewing requests. 4. More complex requests and requests not on the list can require additional input by OFM. 5. OFM will also periodically audit the LO and will be able to see if there were requests for extensions or waivers that were not handled properly.

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Chapter 82-75-080 Waivers and extensions	
Premera There continues to be concern that the timeframe to request a waiver at least 60 days prior to the submission deadline is too long, as this does not take into account issues arising closer to the deadline. Premera respectfully suggest a shorter period, or an alternative for such issues that arise later.	We understand the concern. The timing is designed to allow waiver requests for long term more complicated problems and fixes, and extension requests for the short term problems that can be fixed within a quarter. The rule builds in the ability to request a waiver or extension different from the deadline if extenuating circumstances arise. This is the stop gap measure to address the concern.
Chapter 82-75-090 Penalties	
Kaiser Foundation Health Plan of the Northwest (KFHPNW) KFHPNW appreciates the changes made in the new proposed rules that allow for data suppliers avoid penalties while working to correct reporting issues. We would appreciate more detail on how an occurrence will be assessed or how the defined fine limits per occurrence will be calculated. The rule defines several inaccuracies that will be counted as an occurrence and the fine limit for each occurrence, but it is not clear if an occurrence counts individually in each claim within a submission, or within the file submission as whole. For example, if a date which will appear on every claim is formatted incorrectly, this will likely be caused by the same incorrect bit of code. KFHPNW believes that these instances should count as a single occurrence, as the issue clearly has a single root cause. Charging a fee for every instance of the same error on every claim would result in a total fine based on the number of claims rather than the extent of the error.	We understand the concern and will work towards clarification as we become more experienced once the WA-APCD is up and running. We agree that in KFHPNW, that would count as a single occurrence. We believe the rule provides for that interpretation. We do not think changing the rule will provide better clarity at this time. To address the concern, supporting publications will explain the application of the penalties. It may also be further explained in the DSG, which will be developed in consultation with stakeholder. OFM does not envision imposing penalties as the first course of action. The first course is to work with data supplier to correct the problems—hence the extension and waiver provisions.

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Chapter 82-75-090 Penalties	
Premera With respect to the potential penalties, we believe it would be useful to add clarification that minor or inadvertent submissions of unapproved elements will not typically result in enforcement action. Examples that might occur include an incorrect value, potentially viewed as unapproved coding, where the value had no material effect on the claim payment, and where the data supplier had no knowledge of the problem; or failure to submit a data element that is not uniformly understood as being required, and that the data supplier may not collect.	We understand the concern and will work towards clarification that minor or inadvertent submissions of unapproved elements will not typically result in enforcement action. We do not think changing the rule is needed to provide that clarification. To address the concern, supporting publications will explain the application of the penalties and when an enforcement action may be started, providing examples such as the one expressed by Premera. OFM does not envision imposing penalties as the first course of action. The first course is to work with data supplier to correct the problems—hence the extension and waiver provisions.