Tentative, based on draft rules
This checklist will be updated when the Department finalizes the 2023 rulemaking.

Reinisch Wilson PC

Self-Insurance Good Faith, Fair Dealing Checklist (2023 and 2024 Washington Legislation)

General duties related to GFFD:

1. ☐ Provide equal consideration for the worker's interests. RCW 51.14.180, WAC 296-15-270.
2. ☐ Do not coerce a worker to accept less than the compensation due under Title 51, or otherwise fail to act in good faith and fair dealing regarding SIE obligations under Title 51. RCW 51.14.180, WAC 296-15-272.

WAC 296-15-270 duties: (GFFD violations include repeatedly failing any of the following actions with such frequency as to indicate a general business practice.)

3. ☐ When requesting an interlocutory order, provide a reasonable explanation, exercise due diligence while investigating claim determination, and provide provisional benefits as entitled during the interlocutory period.
4. ☐ Pay wage replacement benefits on time, unless there is a factual, legal, vocational, or medical basis to refuse or delay.
5. ☐ Ensure appropriate handling of claims pursuant to WAC 296-15-350. *See*: WAC 296-15-350 What elements must a self-insurer or third-party administrator (TPA) have in place to ensure appropriate handling of claims?
    - ☐ Establish procedures for securing the confidentiality of claim information.
    - ☐ Have sufficient certified claims administrators to ensure uninterrupted administration of claims.
    - ☐ Ensure every person making claim decisions is a certified claims administrator or in the process of getting certification.
    - ☐ Have new hires that are not already certified start curriculum within six months of hire, to achieve certification within two years, and be provided mentoring by a Washington certified claims administrator.
    - ☐ If a certified claims administrator leaves the employer or TPA, which results in an employer or TPA temporarily not meeting the certification qualifications, apply for a temporary waiver for up to six months pending hiring of a replacement.
    - ☐ Designate one certified claims administrator as the Department's primary contact person for claim issues.
    - ☐ Designate one address for the mailing of all claims-related correspondence.
    - ☐ Forward documents to the appropriate location if an employer's claims are managed by more than one organization.
    - ☐ Establish procedures to answer questions and address concerns raised by workers, providers, or the Department.

- ☐ Ensure claims management personnel are informed of new developments in workers' compensation due to changes in statute, case law, rule, or Department policy.
- ☐ Include the Department's claim number in all claim-related communications with workers, providers, and the Department.
- ☐ Legibly date stamp or produce an imprint on incoming correspondence, identifying both the date received and the location or entity that received it.
- ☐ Ensure a means of communicating with all injured workers. (*Note*: This likely includes translating all letters into a worker's preferred language and using an interpreter as needed.)

6. ☐ Request claim denial or an interlocutory order pursuant to WAC 296-15-420 within 60 days. *See:* WAC 296-15-420 Requesting allowance or denial, or interlocutory order from the department—Providing claim file.
    - ☐ To request an interlocutory order, within 60 days of notice of a claim send a Department-developed template requesting interlocutory status, attach the SIF-2, SIF-5A, and claim file excluding medical bills, and a reasonable explanation why an interlocutory order is needed.
    - ☐ If an interlocutory order is requested, pay provisional benefits and other benefits as eligible/entitled.
    - ☐ To request claim denial, within 60 days of notice of a claim, send a Department-developed template requesting denial, attach and claim file, and notify the worker.
    - ☐ If a denial order is requested, pay all for medical evaluations and diagnostic studies used to make the determination, and pay provisional time loss and other benefits as entitled.
7. ☐ Authorize medical care pursuant to WAC 296-15-330, unless factual, legal, or medical basis. *See:* WAC 296-15-330 What are the requirements for authorization of medical care?
    - ☐ Authorize treatment and pay bills in accordance with Title 51 RCW, medical aid rules, and fee schedules.
    - ☐ Provide a written explanation of benefits (EOB) to the provider, with a copy to the worker if requested, for each bill adjustment. (Not required if the adjustment was made solely to conform to the maximum allowable fees as set by the Department.)
    - ☐ Provide a written explanation to the worker and provider(s) regarding any denied bill. (Not required if bills are returned to the provider because a proper bill was not submitted under WAC 296-20-125).
    - ☐ Establish procedures to ensure prompt responses to inquiries regarding authorization decisions and bill adjustments.
    - ☐ Comply with the requirements of the health care provider network, including:
        - ☐ Utilize only the provider network, except when the provider specialty or geographic location is not yet covered by the network;

- ☐ Provide workers information regarding requirement of the provider network and how to find network providers. This information must be included in publications used by self-insurers to comply with WAC 296-15-400(2)(a);
- ☐ Ensure, when applicable, that only network providers are paid for care after the initial office or emergency room visit; and
- ☐ Promptly assist workers seeing a nonnetwork provider to transfer care to a network provider of their choice; including notification to the worker within forty-five days of receipt of the first bill from a nonnetwork provider that the provider will not be paid for treatment beyond the initial visit on the claim and information about how to find network providers.

8. ☐ Pay compensation pursuant to WAC 296-15-340. *See:* WAC 296-15-340 What are the requirements for payment of compensation?
   - ☐ Pay time-loss compensation in accordance with Title 51 RCW and the Department's rules and regulations.
   - ☐ Provide workers a statement of benefits with each time-loss payment, including the type of benefit paid and the period paid with from and to dates. If authorized by the worker, an electronic statement may be provided.
   - ☐ Provide workers a statement of benefits for their reimbursements.
   - ☐ When payable, continue time-loss at regular semi-monthly or bi-weekly intervals. (You may adjust the initial payment date to align with a worker's normal payday; however, the payment must be made within ten days of the entitlement period.)
9. ☐ Adhere to duties and performance requirements of WAC 296-15-550. *See*: WAC 296-15-550 Self-insured third-party administrator (TPA) duties and performance requirements. Every TPA must:
   - ☐ Agree to be responsible for ensuring that claims are managed in accordance with Title 51 RCW, Washington Administrative Codes, L&I policies, L&I medical treatment guidelines, and medical aid fee schedule.
   - ☐ Follow recognized claim processing practices to include prompt response to inquiries from workers, L&I, ombuds office, and medical providers:
     - ☐ Telephone inquiries within three business days; and
     - ☐ Written correspondence within fifteen business days, unless otherwise specified.
   - ☐ Provide workers with a current contact name and phone number to address their questions and concerns.
   - ☐ Provide the reason(s) for the examination in the worker's independent medical examination (IME) appointment letter.
   - ☐ Keep and preserve the claim records of the contracting self-insured employer and make available to the Department upon request. (*See:* WAC 296-15-550 for process when transferring claims or defaulting).

- ☐ Demonstrate competent claims handling in all areas of the comprehensive core curriculum under RCW 296-15-360(5) as verified by standard Department performance-based audits.
- ☐ Promptly remediate any repeat audit deficiencies in accordance with WAC 296-15-560.
- ☐ Do not electronically reverse the benefit payment deposited in an account (instead pursue any payment adjustments as provided in RCW 51.32.240).

10. ☐ Provide a copy of the claim file in a timely manner pursuant to RCW 51.14.120. *See:* RCW 51.14.120 Copy of claim file—Notice of protest or appeal—Medical report:
    - ☐ When authorized under RCW 51.28.070, provide a copy of the employee's claim file at no cost within fifteen days of receipt of a request. (For second or subsequent requests, a reasonable charge for copying may be made. Provide the entire contents of the claim file unless the request is for only a particular portion of the file. Any new material added to the claim file after the initial request shall be provided under the same terms and conditions as the initial request.)
    - ☐ Provide the physician performing an examination with all relevant medical records from the worker's claim file, to the extent required of the Department under RCW 51.36.070.
11. ☐ Communicate with injured workers using Department-developed templates pursuant to WAC 296-15-425, including use of the templates in the worker's preferred language. *See:* WAC 296-15-425 Communicating to injured workers during the course of the claim.
    - ☐ Communicate in writing using a Department-developed template to inform workers of actions involving delivery of benefits.
    - ☐ Complete a Department-developed template and send to the worker within five days of a claims administrator taking action on a claim involving: wage calculations for the purposes of time-loss compensation; starting, stopping, or denying time loss or loss of earning power; accepting or denying a contended condition; authorizing or denying treatment requested by a medical provider with specified diagnosis and procedure codes for treatment requiring authorization under WAC 296-20-03001; or assessing an underpayment or overpayment of benefits (from date of knowledge).
    - ☐ When starting time-loss compensation, send a copy of the Department-developed template and SIF-2 to the Department.
    - ☐ When communicating the worker's monthly wage, use the Department-developed template as a cover letter to the SIF-5A, the time-loss calculation rate notice under WAC 296-15-420.
12. ☐ Notify the worker or beneficiary of their rights and obligations pursuant to WAC 296-15-400, RCW 51.28.010, or 51.28.030. *See*: WAC 296-15-400 Self-insured workers' rights and obligations. How must a self-insurer notify its workers of their rights and obligations under the industrial insurance laws?
    - ☐ Notify workers of their industrial insurance rights and obligations within thirty days of hire, provide a form substantially similar to the one-page Workers'

Compensation Filing Information L&I form F207-155-000 (if authorized by the worker, an electronic link is sufficient).

- ☐ When a worker files a claim, provide the current edition of the Department's pamphlet P207-085-000, A Guide to Workers' Compensation Benefits for Employees of Self-Insured Businesses (if authorized by the worker, an electronic link is sufficient) and the name, address, and phone number of the person or organization handling the worker's claim.

See: RCW 51.28.010 Notice of accident—Notification of worker's rights—Claim suppression:

- ☐ Report accidents and injury resulting therefrom to the Department pursuant to RCW 51.28.025 where the worker has received treatment from a physician or a licensed advanced registered nurse practitioner, has been hospitalized, disabled from work, or has died as the apparent result of such accident and injury.
- ☐ Do not suppress claims, which means intentionally: (a) Inducing employees to fail to report injuries; (b) Inducing employees to treat injuries in the course of employment as off-the-job injuries; or (c) Acting otherwise to suppress legitimate industrial insurance claims.

See: RCW 51.28.030 Beneficiaries' application for compensation—Notification of rights.

- ☐ Where death results from injury, upon receipt of notice of accident under RCW 51.28.010, the director shall immediately forward to the party or parties required to make application for compensation under this section, notification, in nontechnical language, of their rights under this title.

13. ☐ Only ask the Department to issue an order denying the claim with factual, legal, or medical basis.
14. ☐ Provide a worker or beneficiary a SIF-2 or ability to file a claim pursuant to WAC 296-15-320 and 296-15-405. *See:* WAC 296-15-320 Reporting of injuries. What elements must a self-insurer have in place to ensure the reporting of injuries? Every self-insurer must:

- ☐ Establish procedures to assist injured workers in reporting and filing claims.
- ☐ Immediately provide a Self-Insurer Accident Report (SIF-2) form F207-002-000 to every worker who makes a request, or upon the self-insurer's first knowledge of the existence of an industrial injury or occupational disease, whichever occurs first.
- ☐ Establish procedures for ensuring the timely delivery of completed SIF-2s to the claims management entity.
- ☐ Designate individuals as resources to address employee questions. These individuals must have sufficient knowledge to answer routine questions, have responsibility for seeking answers to more complex problems, have detailed knowledge of the self-insurer's claim filing process, and be reasonably accessible to employees.

See: WAC 296-15-405 Filing a self-insured claim.(1) What form is used to report a self-insured worker's industrial injury or occupational illness?

- ☐ Obtain Self-Insurer Accident Reports (SIF-2) L&I form F207-002-000 from the Department.

- □ Report workers' industrial injuries and illnesses to the Department with SIF-2s.
- □ When notified of injury or illness, provide the worker with this prenumbered form and assistance in filing a claim.
- □ Provide the worker the designated copy of the completed SIF-2 (which includes an explanation of the worker's rights and responsibilities) within five working days of completion.

15. □ Have claims managed by a certified claims administrator in accordance with WAC 296-15-350(2). (*Note*: WAC 296-15-350 is included above in checklist item #5).
16. □ Forward reopening applications to the Department within five working days of receipt pursuant to WAC 296-15-470 ("A self-insurer must forward an application to reopen a claim to the Department within five working days of receipt.")
17. □ Forward a protest or appeal to the Department within five working days of receipt pursuant to RCW 51.14.120(2) ("The self-insurer shall transmit notice to the department of any protest or appeal by an employee relating to the administration of an industrial injury or occupational disease claim under this chapter within five working days of receipt") and WAC 296-15-480 ("A self-insurer must submit a written protest by a worker to the Department within five working days of receipt").

WAC 296-15-272 Duties: (GFFD violations include intentionally failing the to take the following actions with the intent to interfere with the worker's or beneficiary's ability to pursue benefits under Title 51, reopen a claim, or request reconsideration or appeal).

18. □ Provide the worker or beneficiary a SIF-2 or ability to file a claim pursuant to WAC 296-15-320 and 296-15-405. (*Note*: WAC 296-15-320 and WAC 296-15-405 are included above in checklist item #14.)
19. □ Forward an application to reopen a claim within five working days of receipt pursuant to WAC 296-15-470 ("A self-insurer must forward an application to reopen a claim to the Department within five working days of receipt.") (*Note*: WAC 296-15-470 is included above in checklist item #16.)
20. □ Forward a protest or appeal to the Department within five working days of receipt pursuant to RCW 51.14.120(2) ("The self-insurer shall transmit notice to the department of any protest or appeal by an employee relating to the administration of an industrial injury or occupational disease claim under this chapter within five working days of receipt") and WAC 296-15-480 ("A self-insurer must submit a written protest by a worker to the Department within five working days of receipt"). (*Note*: RCW 51.14.120 and WAC 296-15-480 are included above in checklist items #10 and #17).