

Finance Technical Advisory Committee



Finance Technical Advisory Committee (FTAC) Meeting Materials

January 12, 2023 2:00 p.m. – 4:00 p.m.

(Zoom Attendance Only)

Meeting materials

Meeting agenda	1
Public comment	
Open Public Meetings Act Training	.3
Review of the Commission's work in 2022	4
Public Records Act Training	.5
The Commission's approach to work in 2023	6
Schedule of upcoming meetings	7



Welcome and agenda

Tab 1



Finance Technical Advisory Committee (FTAC)

January 12, 2023 2:00 p.m. – 4:00 p.m. Zoom Meeting

AGENDA

Commission Members:								
	Christine Eibner		Eddy Rauser		Pam MacEwan			
	David DiGiuseppe		Ian Doyle		Robert Murray			
	Esther Lucero		Kai Yeung		Roger Gantz			

Time	Agenda Items	Tab	Lead
2:00-2:05 (5 min)	Welcome and call to order	1	Angela Castro, Senior Health Policy Analyst Health Care Authority
2:05-2:20 (15 min)	FTAC member and staff introductions	1	Angela Castro, Senior Health Policy Analyst Health Care Authority
2:20-2:25 (5 min)	Welcome	1	Vicki Lowe, Commission Chair Executive Director, American Indian Health Commission for Washington State
2:25-2:40 (15 min)	Public comment	2	Angela Castro, Senior Health Policy Analyst Health Care Authority
2:40-3:00 (20 min)	Open Public Meetings Act Training	3	Dana Gigler, Assistant Attorney General, Attorney General of Washington
3:00-3:15 (15 min)	Review of the Commission's work in 2022	4	Liz Arjun, Senior Consultant and Jon Kromm, Principal Health Management Associates
3:15-3:35 (20 min)	Public Records Act Training	5	Dana Gigler, Assistant Attorney General, Attorney General of Washington
3:35-3:45 (10 min)	The Commission's approach to work in 2023	6	Liz Arjun, Senior Consultant and Jon Kromm, Principal Health Management Associates
3:45-3:50 (5 min)	Schedule of upcoming meetings	7	Angela Castro, Senior Health Policy Analyst Health Care Authority
3:50-4:00 (10 min)	Q&A		FTAC Members
4:00	Adjournment		Angela Castro, Senior Health Policy Analyst Health Care Authority

Subject to Section 5 of the Laws of 2022, Chapter 115, also known as HB 1329, the Commission has agreed this meeting will be held via Zoom without a physical location.



Public comment

Tab 2

Public comment





Open Public Meetings Act Training

Tab 3

Open Public Meetings Act

January 2023

Training Prepared by Washington State Attorney General's Office

Presented By Dana Gigler, Assistant Attorney General



Open Public Meetings Act (OPMA)

It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

Basic Requirements

All meetings of the **GOVERNING BODY** of a **PUBLIC AGENCY** shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in RCW 42.30.

RCW 42.30.030

What is a Governing Body?

Multimember boards, commissions, councils, or other policy or rule-making bodies of a public agency.

Includes

Committees and Subcommittees –
 Acting on behalf of governing body, taking testimony or public comment, or conducting hearings

Advisory Bodies –
 If the body's advice is necessary for another governing body to act, and the body was created by the legislative body.

Meeting



- Meeting means meetings at which the public agency takes "action."
- Requires a majority of its members (quorum).

No quorum→ No meeting

Physical presence not required – a meeting can occur by phone or email.

■ Does not need to be titled "meeting" – may be a "retreat," "workshop," "study session," etc.

Simply receiving information without comment is not a meeting.



Action

"Action" means the transaction of the official business of the public agency and includes but is not limited to:

Public testimony

- All deliberations

- Discussions

- Considerations

- Reviews

- Evaluations

- Final actions*



^{*} The requirements of the OPMA are triggered whether or not "final" action is taken. (See upcoming slide on "final action.")

Final Action

- "Final action" is a collective positive or negative decision, or an actual vote, by a majority of the governing body, or by the "committee thereof."
- Must be taken in public, even if deliberations were in closed session.
- Secret ballots are not allowed.





Regular Meetings



- Recurring meetings held in accordance with a periodic schedule by ordinance, resolution, bylaws or other rule.
- Must have an agenda available online at least 24 hours in advance.
 - You can modifying an agenda.
 - Invalidate otherwise legal actions taken at a regular meeting where agenda was not posted 24 hours in advance.
 - Very small agencies may be exempt.





Special Meetings

Called by presiding officer OR majority of the members.



Notice:

- 24 hours before the meeting
- Written
- Time
- Place
- Business to be transacted (agenda)
- ☐ Exception: not required when the notice cannot be posted with reasonable safety.



How:

- ☐ To each member of the governing body (unless waived).
- ☐ To each local newspaper of general circulation, radio, and TV station which has a notice request on file.
- □ Posted on the agency's website [with certain exceptions in RCW 42.30.080(2)(b), for example, if the agency does not have a website].
- site (if not at the same location, or not remote).



Include links and phone numbers for public attendance.

Emergency Meetings

- Notice is not required when special meeting called to deal with an emergency.
- Emergency involves injury or damage to persons or property or the likelihood of such injury or damage.
- Where time requirements of notice make notice impractical and increase likelihood of such injury or damage.



Serial Meetings



"Action" taken by a majority of the legislative body even if they are not at the same place at the same time.



The fact that the members do not recognize that they are meeting does not matter if there was a collective intent to act.



Passive receipt of information.

Collective Intent to Meet

Citizens Alliance v. San Juan County, 184 Wn.2d 428, 359 P.3d 753 (2015).

No OPMA violation because the commissioners were not aware that the communications included a majority, and passive receipt of information is not "action" under the OPMA.

Egan v. City of Seattle, 471 P.3d 899 (2020)

Over two dozen communications between individual councilmembers as well as city staff during a three-day period including in-person meetings, emails, phone calls, text messages, and distribution of hard copies of a draft press release.







In the event of an emergency, an agency may:

- Option 1: Hold an all remote meeting without a physical location.
- Option 2: Hold a meeting with governing body present but some or all of the public excluded.

Requirements for a remote meeting:

- Declared emergency at the local, state or federal level.
- Agency determines it cannot hold a meeting in person with reasonable safety where members or public are in attendance.
- Public must be able to listen, if not, meeting prohibited except executive session.
- Notice of meeting must include remote participation instructions.

Individual governing body members may participate remotely during nonemergency times.

Executive Session



- Part of a regular or special meeting that is closed to the public.
- Limited to specific purposes set out in the OPMA, RCW 42.30.110.
- Purpose of the executive session and the time it will end must be announced by the presiding officer before it begins.
- Time may be extended by further announcement.
- Purpose of executive session must be entered into the minutes.



- If going into executive session, have a plan for ensuring only invited people are allowed access.
 - Unique "meeting" for this part of the meeting.
 - Utilize waiting room feature and admit participants.

Public Attendance

- A public agency can't place conditions on public to attend meetings subject to OPMA.
- Reasonable rules of conduct can be set.
- Cameras and tape recorders are permitted unless disruptive.
- Governing body may adopt generally applicable conditions determined to be reasonably necessary to protect public health or safety, or to protect against interruptions.



 Agencies encouraged to provide remote access that does not require an additional cost to access the meeting.



Remote Observation and Participation



Agencies encouraged to:

- Provide remote access that does not require an additional cost to access the meeting.
- Provide an online streaming option for, all regular meetings.
- Make audio or video recordings.
- Make recordings available online for a minimum of six months.
- This does not alter recordkeeping requirements under chapter 42.56 RCW.

Public Comment

NeW!

Oral or written public comment required prior to taking final action at a regular meeting.

Oral Comment

- If oral comment accepted, the governing body shall, when reasonable, provide people with a disability, limited mobility or any other reason that makes physical attendance difficult, the opportunity to make oral comment.
- May limit comment on items not on agenda.
- May put guidelines in place for public comment i.e. time limits.

Written Comment

- Written testimony must be distributed to the governing body.
- May have reasonable deadlines for submission of written testimony.
- May limit comment on items not on agenda.

Minutes

- Minutes of public meetings must be promptly recorded and open to public inspection.
- Minutes of an executive session are not required.
- No format specified in law.



- Executive session's purpose must be recorded.
- If meeting provides remote option, add relevant information to the minutes.
 - Links & phone numbers.
 - Number of remote participants.



Interruptions and Disruptions

• May stop individuals from speaking when not recognized to speak.



■ The OPMA provides a procedure for dealing with situations where a meeting is being interrupted, the orderly conduct of the meeting is unfeasible, and order cannot be restored by removal of the disruptive persons.

• Meeting room can be cleared and meeting can continue, or meeting can be moved to another location, but final disposition can occur only on matters appearing on the agenda. More details set out in the OPMA.



OPMA Penalties

- Individual penalty
 - \$500 fine for the first violation
 - \$1,000 for subsequent violation
 - Costs and attorney fees
- Ordinances, resolutions, or orders adopted at illegal meetings are void
- OPMA violations may serve as a basis for recall from office





Review of the Commission's work in 2022

Tab 4

Universal Health Care Commission

Work in 2022



Legislative charge: SB 5399

- Senate Bill 5399 (2021) established the Universal Health Care Commission to:
 - Create immediate and impactful changes in the health care access and delivery system in Washington.
 - Prepare the state for the creation of a health care system that provides coverage and access for all Washington residents through a unified financing system, once the necessary federal authority has become available.



Specific tasks and due dates

- By November 1, 2022, submit a report and recommendations to the Legislature the Governor and post on the HCA's website.
- After November 1, 2022, continue to identify ways to implement:
 - Commission's recommendations
 - Structural changes to prepare the state for a transition to a unified health care financing system
- November 1, 2023, and annually thereafter, submit annual reports and recommendations to the Legislature and Governor.



Commission makeup

- 15 members make up the commission:
 - ▶ Office of the Insurance Commissioner
 - ► HCA
 - Department of Health
 - Washington Health Benefit Exchange
 - Office of Equity
 - ► Legislative member from each caucus (4)
 - 6 members appointed by the Governor:
 - With knowledge of health care coverage, access, and financing, including at least one:
 - Consumer representative
 - → Tribal government representative

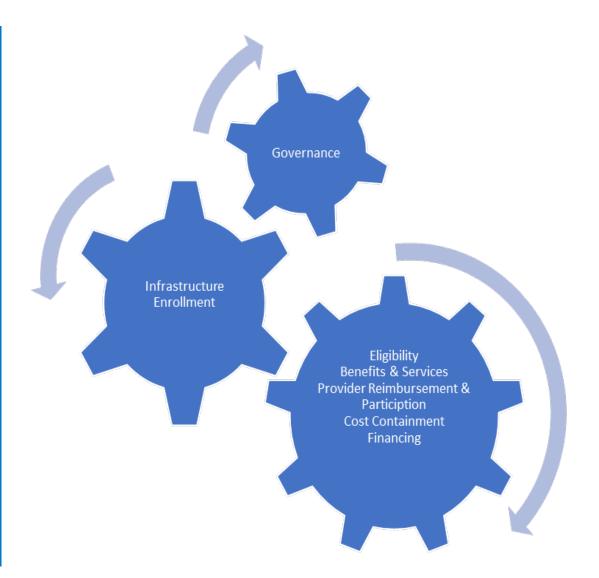


Commission's first year: focus on the legislative report

April June July August October Section 1: Section 4: Section 2: Section 5: **Full report** Synthesis of past **Detailed Strategy** Reimbursement approval Readiness analyses Rates Section 6: **Begin FTAC** Section 3: Section 7: charter Section 2: Short-term **Finance Committee Core Components Preliminary Strategy** Solutions of universal system Recommendations Section 7: Review and **Finance** Discussion Committee



Design components developed by the Commission





2022 recommendations to the Legislature

- Align current state-run coverage programs
- Enhance available coverage
- Initiate components of needed infrastructure
- Begin discussions with federal gov't on eligibility options
- Continue to fund Apple Health rate increases for primary care, behavioral health, and dental services



Establishment of FTAC

FTAC's work will be **directed by the commission** and will provide guidance and options to the commission on the following:

- System design framework, including eligibility, benefits and other services, and needed core operational and implementation components.
- Ways to reduce the underlying cost of health care.
- How health care services will be paid in a unified financing system, including alternative payment methods for fee-forservice and risk-bearing arrangements.
- Sources of revenue to replace premiums and co-pays in a universal health care system with a unified financing system.





Thank you!

Questions?

- Contact the commission at: <u>HCAUniversalHCC@hca.wa.gov</u>
- Visit the commission's webpage at: hca.wa.gov/about-hca/universal-health-care-commission
- View the commission's 2022 report to the Legislature at: <u>hca.wa.gov/assets/program/commiss</u> <u>ion-baseline-report-20221101.pdf</u>





Public Records Act Training Tab 5

Public Records Act

January 2023

Training Prepared by Washington State Attorney General's Office

Presented By Dana Gigler, Assistant Attorney General



Two Different Laws

Open Public Records

RCW 42.56

Public Records Act (PRA)



Open Public Meetings

RCW 42.30

Open Public Meetings Act (OPMA)



Requirements



Open Public Records

- Records are open unless there is an exemption authorized by law.
- PRA passed via Initiative 276 in 1972.
- Applies to <u>all</u> public agencies, state and local.
- Does not apply to courts.
- Applies to "public records."

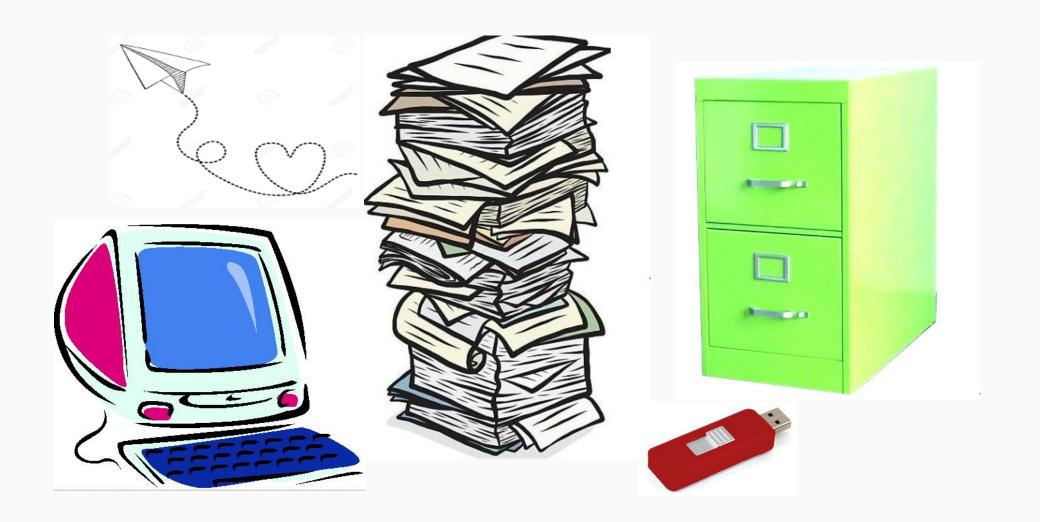


Open Public Meetings

- Requires meetings of governing body to be open gavel-to-gavel, unless there is an exception authorized by law.
- OPMA passed in 1971.
- Applies to all <u>multimember</u> public agency boards and commission governing bodies, and their committees.
- Does not apply to courts.
- Does not apply to Legislature.



Public Records Act



Touchstone:



Public records of government agencies are presumed open.



- > Non-exempt public records must be disclosed.
- Records or information in records can be withheld only if law allows. Exemptions are "narrowly construed."
- Location does not matter. Public records can be located in/on agency files/accounts/servers, or non-agency files/accounts/servers.
- ➤ Public records must be **retained** pursuant to records retention laws (RCW 40.14).

"Public Records" are State Property



- RCW 40.14.020: "All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter."
- They are <u>not</u> your records, even if you created them, and even if they are on/in your personal devices/accounts/files.
- > You are required to manage and dispose them only in accordance with state law.

"Public Record" - PRA (RCW 42.56)

"Public record" means:

- any writing
- containing information
- relating to
- the conduct of government or
- the performance of any governmental or proprietary function
- prepared, owned, used, or retained
- by any state or local agency
- regardless of physical form or characteristics."

~ RCW 42.56.010



Writing

- "Writing" includes "handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated."
 - ~ RCW 42.56.010
- So, "public record" is broadly defined.







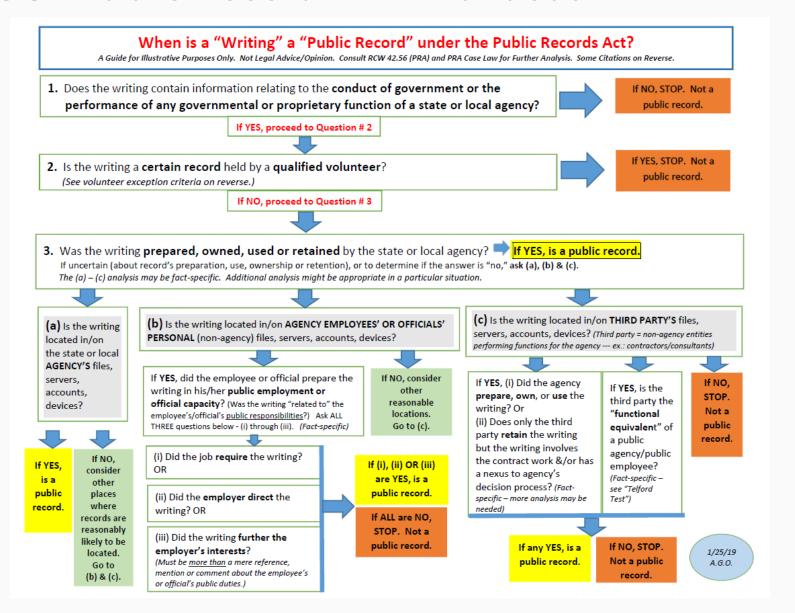








AGO "Public Record" PRA Handout



What does the agency need to do?

- Manage, maintain, organize records
- Accept and respond to public records requests
- Work / communicate with requesters
- Search for records
- Gather the records
- Review the records for exemptions to disclosure
- Produce the records

What do I need to do?

- Manage, maintain, organize your records
- Review public records requests
- Search for records
- Review the records for exemptions to disclosure

Searches - Generally



- > Agency must conduct an adequate search
- Search should be reasonably calculated to uncover responsive records
- Must follow obvious leads to possible locations where records are likely to be found.
- If responsive public records are on or in employees' **personal devices**, **personal accounts**, **or personal files**, those must be searched, too.
- ➤ The focal point of the judicial inquiry is the agency's search process, not the outcome of the search.
- > The agency bears the burden of proof to show the adequacy of the search.

[~] RCW 42.56.520; Neighborhood Alliance of Spokane v. Spokane County; Hobbs v. State; Block v. City of Gold Bar; Nissen v. Pierce County.

Using Personal Devices/Accounts for Agency Business

"Public records" include records of agency business when they
are created or retained by agency employees or officials on
home computers or personal devices, or in non-agency
devices, email accounts or files.

Those records must be preserved, searched and produced,





Privacy

Question: Do **you** have a "privacy" right in public records in/on non-agency accounts/devices?

- > There is no general "privacy" exemption in the PRA.
- ➤ If privacy is an express element of another exemption, privacy is invaded only if disclosure about the person would be:
 - 1. "Highly offensive to the reasonable person" and
 - 2. "Not of legitimate concern to the public."



~ RCW 42.56.050

This means that if information does not satisfy both these factors, it cannot be withheld as "private" information under other statutes.

Exemptions



- An exemption must exist in law (state or federal; PRA or other laws).
- A public record cannot be withheld based only on a (your) promise of confidentiality.
- An agency must, in writing, cite the exemption for the requester and provide a brief explanation. No "silent withholding."
- Exemptions are narrowly construed. Agency can lawfully withhold only exempt information that fits squarely within an exemption, must release other information.
- Requesters can go to court to challenge exemptions cited by an agency. If agency is incorrect, the court can award civil penalties.

PRA in the News





Wapato Agrees to \$130,000 in Payouts for **Records Requests**



Feb. 4, 2019, at 9:11 a.m.

Court tags Tacoma police with \$1.77M for withholding records

Decision: The city withheld 546 pages from former officer

By Sean Robinson, The News Tribune Published: February 8, 2019, 7:24 PM









THE NEWS TRIBUNE

Lawsuit Says Tacoma Police Withheld Documents About Use of Stingray Surveillance Device

Published: Thursday, February 11, 2016

Withholding public records costs Port of Tacoma \$159,000; judge makes finding of gross negligence





BY SEAN ROBINSON

srobinson@thenewstribune.com



February 15, 2018 05:37 PM Updated February 15, 2018 09:31 PM **Spokane County settles lawsuit** over public records violation

By: Jeff Humphrey **Y**

Posted: Oct 14, 2015 02:24 PM PDT Updated: Nov 20, 2016 08:08 PM PST



The Commission's approach to work in 2023

Tab 6

Universal Health Care Commission

Approach to work in 2023



Strategy for 2023 and beyond

- Phase 1: Foundational universal health care design components:
 - Eligibility
 - Benefits and services
 - Provider reimbursement and participation
 - Cost containment elements
 - Financing
- Phase 2: Core components to operationalize and implement:
 - Infrastructure to implement design components
 - Enrollment system
- ▶ Phase 3: Offer direction to the Legislature about components related to governance and oversight of the system.



2023 meetings approach

Two tasks from the Legislature

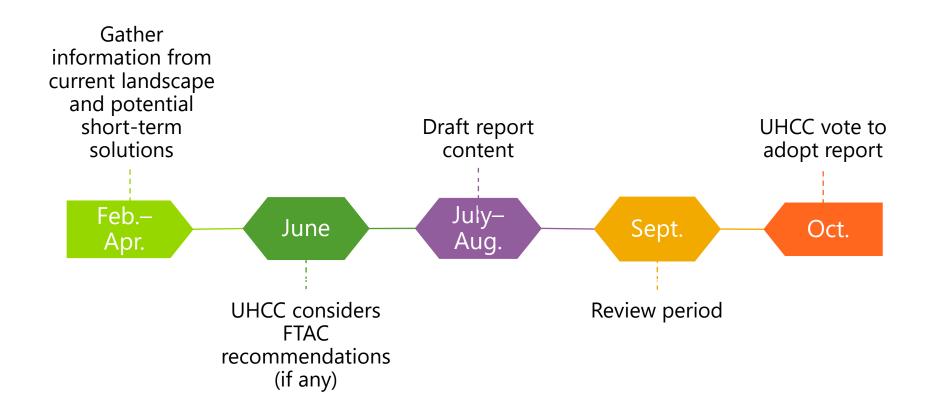
- Propose short-term solutions that help move towards a universal health care system
- Design the new system

Commission meetings will have a two-track focus

- Developing short term solutions
- Designing the new system, including consideration/discussion of design elements with information from FTAC



Commission's 2023 report development timeline





2023 workplan

February 2023 UHC

Overview of Current health UHCC work toprograms in Washington and date transitional Mandatory solutions Washington

trainings

FTAC

- Eligibility
- · Information from other states
- · Key equity principles for eligibility considerations
- Identify priorities for FTAC

- Charter review
- Guidance and information from UHCC
- Pros/cons of including Medicare (recommended topic)
 - Information from other states
 - Equity impacts
- Identify key topics and questions to for UHCC related to Medicare

March 2023 FTAC

April 2023 UHC

- Revisit options of interest from the February meeting and impacts
- Discuss equity impacts
- Other solutions to consider
- Possible briefing from FTAC including identified questions about eligibility and Medicare

- Feedback from UHCC
- If briefed on Medicare, agree on draft options for Medicare for UHCC

FTAC

June 2023 UHC

- Finalize 2023 transitional recommendations for 2023 report
- Possible briefing from FTAC on Medicare options
- Decision on Medicare
- Guidance for FTAC on ERISA (recommended topic)

Note: workplan contingent upon progress as planned



2023 workplan

August 2023 UHC

- Guidance and information from UHCC on ERISA
- Consideration of ERISA plans
- Information from other states
- Equity impact
- Identify key topics and questions for UHCC related to ERISA

luly 2023 FTAC

- Finalize content for 2023 report
- Possible briefing from FTAC including identified questions about eligibility and ERISA plans
- Feedback from UHCC
- Agree on options for ERISA for UHCC

September 2023 FTAC

October 2023 UHC

- Possible briefing from FTAC on ERISA options
- Decision on ERISA plans
- Vote on report
- Overview of Medicaid to develop guidance and questions for FTAC
- Guidance and key questions from UHCC on Medicaid
- Equity impact
- Information from other states
- Identify key topics and questions for UHCC related to Medicaid

December 2023 UHC

- Possible briefing from FTAC on Medicaid
- Discussion about Medicaid
- 2024 preview
- Policies in motion
- 2024 UHCC workplan
- Revisit/repurpos e FTAC (if applicable)

November 2023 FTAC

Note: Workplan contingent upon progress as planned



Commission's February meeting and next steps

- Based on commission interviews with project team:
 - Discuss transitional options for consideration based on interviews with commission members
- Vote to adopt the FTAC charter
- Identify priority questions and topics for FTAC's March meeting related to eligibility and Medicare



FTAC contact and resources

- Contact FTAC at: HCAUniversalFTAC@hca.wa.gov
- Sign up to receive FTAC and UHC Commission announcements at:

 hca.wa.gov/about-hca/who-we-are/universal-health-care-commission





Schedule of upcoming meetings

Tab 7



STATE OF WASHINGTON HEALTH CARE AUTHORITY

626 8th Avenue, SE • P.O. Box 45502 • Olympia, Washington 98504-5502

The following is the schedule of regular meetings for the Washington State Health Care Authority's Universal Health Care Commission's Finance Technical Advisory Committee for 2023:

Date	Time	Location
January 12, 2023	2:00-4:00p.m.	Zoom
March 9, 2023	3:00-5:00 p.m.	To be determined
May 11, 2023	3:00-5:00 p.m.	To be determined
July 13, 2023	2:00-4:00 p.m.	To be determined
September 14, 2023	2:00-4:00 p.m.	To be determined
November 9, 2023	2:00-4:00 p.m.	To be determined

Unless indicated otherwise, meetings will be held at the Health Care Authority, Sue Crystal conference rooms A/B, 626 8th Avenue SE, Olympia, WA 98501.

See the Health Care Authority's Universal Health Care Commission's Finance Technical Advisory Committee web page to learn more about the Committee, meeting materials, and Zoom information.

If you need further information or are a person with a disability and need a special accommodation, please contact Serena Grimes, by telephone at 360-725-2030 or via email at serena.grimes@hca.wa.gov.

OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED

DATE: December 02, 2022

TIME: 1:45 PM

WSR 22-24-065



STATE OF WASHINGTON HEALTH CARE AUTHORITY

626 8th Avenue, SE • P.O. Box 45502 • Olympia, Washington 98504-5502

The following is the schedule of regular meetings for the Washington State Health Care Authority's Universal Health Care Commission for 2023:

Date	Time	Location
February 9, 2023	2:00-4:00p.m.	Zoom
April 11, 2023	2:00-4:00 p.m.	To be determined
June 13, 2023	2:00-4:00 p.m.	To be determined
August 10, 2023	2:00-4:00 p.m.	To be determined
October 12, 2023	2:00-4:00 p.m.	To be determined
December 14, 2023	2:00-4:00 p.m.	To be determined

Unless indicated otherwise, meetings will be held at the Health Care Authority, Sue Crystal conference rooms A/B, 626 8th Avenue SE, Olympia, WA 98501.

See the Health Care Authority's Universal Health Care Commission web page to learn more about the Commission, meeting materials, and Zoom information.

If you need further information or are a person with a disability and need a special accommodation, please contact Serena Grimes, by telephone at 360-725-2030 or via email at serena.grimes@hca.wa.gov.

OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED

DATE: December 02, 2022

TIME: 1:40 PM

WSR 22-24-064