



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Health Care Authority, Washington Apple Health

- Preproposal Statement of Inquiry was filed as WSR 15-12-078; or
 Expedited Rule Making--Proposed notice was filed as WSR _____; or
 Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
 Supplemental Notice to WSR _____
 Continuance of WSR _____

Title of rule and other identifying information:

WAC 182-501-0160, Exception to Rule – Request for a noncovered health care service

Hearing location(s):

Health Care Authority
Cherry Street Plaza Building; Sue Crystal Conf Rm 106A
626 - 8th Avenue, Olympia WA 98504

Metered public parking is available street side around building. A map is available at:
http://www.hca.wa.gov/documents/directions_to_csp.pdf
or directions can be obtained by calling: 360-725-1000

Date: **August 25, 2015** Time: **10:00 a.m.**

Date of intended adoption: Not sooner than August 26, 2015
(Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator
Address: PO Box 45504, Olympia WA, 98504-5504
Delivery: 626 – 8th Avenue, Olympia WA 98504
e-mail arc@hca.wa.gov
fax (360) 586-9727

by **5:00 pm August 25, 2015**

Assistance for persons with disabilities: Contact

Kelly Richters by August 21, 2015
TTY (800) 848-5429 or (360) 725-1307 or e-mail:
kelly.richters@hca.wa.gov

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The agency is amending this rule to clarify the exception to rule process: A client or provider must request an exception to rule before the requested service is rendered. The agency is also making editorial changes to improve clarity.

Reasons supporting proposal: The rule as written could be misinterpreted.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 22, 2015

TIME: 8:17 AM

WSR 15-15-166

DATE
July 22, 2015

NAME
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: Health Care Authority

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Sean Sullivan	PO Box 42716, Olympia WA 98504-2716	(360) 725-1344
Implementation....Gail Kreiger	PO Box 45506, Olympia WA 98504-5506	(360) 725-1681
Enforcement.....Gail Kreiger	PO Box 45506, Olympia WA 98504-5506	(360) 725-1681

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

WAC 182-501-0160 Exception to rule—Request for a noncovered health care service. A client ~~((and/))~~ or the client's provider may request that the medicaid agency or its designee ~~((to))~~ pay for a non-covered health care service. This is called an exception to rule (ETR). The request for ETR must be made before the service is rendered.

(1) The agency's medical director or designee evaluates and considers requests on a case-by-case basis. The agency's medical director has final authority to approve or deny a request for ETR.

~~((2))~~ The agency or its designee cannot approve an ~~((exception to rule))~~ ETR if the requested service is excluded under state statute.

~~((2))~~ ~~The~~ (3) Any item or service ~~((s))~~ for which an ~~((exception))~~ ETR is requested must ~~((be of a type and nature which falls))~~:

(a) Fall within accepted standards and precepts of good medical practice;

~~((3))~~ ~~All exception requests must~~ (b) Represent cost-effective ~~((utilization of medical assistance program funds as determined by the agency or its designee;~~

~~((4))~~ ~~A request for an exception to rule must~~ use of public funds; and

(c) Be submitted to the agency or its designee in writing within ninety days of the date of the written notification denying authorization for the noncovered service.

(4) For the agency or its designee to consider the ~~((exception to rule))~~ ETR request:

(a) The client ~~((and/))~~ or the client's health care provider must submit sufficient client-specific information and documentation to the agency's medical director or designee which demonstrate that the client's clinical condition is so different from the majority that there is no equally effective, less costly covered service or equipment that meets the client's need ~~((s))~~.

(b) The client's health care ~~((professional))~~ provider must certify that medical treatment or items of service which are covered under the client's ~~((medical assistance))~~ Washington apple health program and which, under accepted standards of medical practice, are indicated as appropriate for the treatment of the illness or condition, have been found to be:

(i) Medically ineffective in the treatment of the client's condition; or

(ii) Inappropriate for that specific client.

(5) Within fifteen business days of receiving the request, the agency or its designee must send ~~((s))~~ written notification to the provider and the client:

(a) Approving the ~~((exception to rule))~~ ETR request;

(b) Denying the ~~((exception to rule))~~ ETR request; or

(c) Requesting additional information.

(i) The additional information must be received by the agency or its designee within thirty days of the date the information was requested.

(ii) The agency or its designee must ~~((s or denies the exception to rule))~~ or deny the ETR request within five business days of receiving the additional information.

(iii) If the requested information is insufficient or not provided within thirty days, the agency or its designee denies the ~~((exception to rule))~~ ETR request.

~~(6) ((The agency's medical director or designee evaluates and considers requests on a case by case basis. The agency's medical director has final authority or approve or deny a request for exception to rule.~~

~~(7) Clients do))~~ A client does not have a right to a fair hearing on ~~((exception to rule))~~ ETR decisions.