



RULE-MAKING ORDER

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

Agency: Health Care Authority, Washington Apple Health

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: 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.

Citation of existing rules affected by this order:

Repealed:
 Amended: 182-501-0160
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 15-15-166 on July 22, 2015.
 Describe any changes other than editing from proposed to adopted version: None

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: August 27, 2015

NAME
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED
DATE: August 27, 2015
TIME: 9:05 AM
WSR 15-18-044

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

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	Repealed	_____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

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>1</u>	Repealed	_____

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.

~~((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))~~ 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.