



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
**(Implements RCW 34.05.350)**

**Agency:** Health Care Authority, Medicaid Program

**Emergency Rule Only**

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify) December 31, 2011

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** Upon order of the Governor, the Health Care Authority (HCA) was required to reduce its budget expenditures for fiscal year 2011 by 6.3%. This cost-saving measure was implemented as part of this mandated reduction and to bring HCA's payment methodology for Qualified Medicare Beneficiary (QMB) clients into alignment with the payment formula established in WAC 182-502-0110 for Medicare/Medicaid dual-eligible QMB clients.

**Citation of existing rules affected by this order:**

Repealed:  
 Amended: 388-517-0320  
 Suspended:

**Statutory authority for adoption:** RCW 41.05.021

**Other authority:** 42 U.S.C. § 1396a(n)(2)

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Governor Gregoire issued Executive Order 10-04 on September 13, 2010, under the authority of RCW 43.88.110(7). In the Executive Order, the Governor required HCA and all other state agencies to reduce their expenditures in state fiscal year 2011 by approximately 6.3%. This emergency rule is necessary while HCA completes the permanent rule-making process initiated by the CR-101 filed under WSR 11-09-056. HCA filed the CR-102 proposal under WSR 12-01-127 and will hold a public hearing on January 24, 2012.

**Date adopted:**  
**December 29, 2011**

**NAME (TYPE OR PRINT)**  
Kevin M. Sullivan

**SIGNATURE**  
*Kevin M. Sullivan*

**TITLE**  
HCA Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 29, 2011**  
**TIME: 1:06 PM**

**WSR 12-02-033**

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	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:**

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

AMENDATORY SECTION (Amending WSR 07-15-032, filed 7/12/07, effective 8/12/07)

**WAC 388-517-0320 Medicare savings and state-funded medicare buy-in programs cover some client costs.** (1) For qualified medicare beneficiary (QMB) clients, the ((department)) agency pays((:

~~(a) Medicare Part A premiums (if any);~~

~~(b) Medicare Part B premiums;~~

~~(c) Coinsurance, deductibles, and copayments for medicare Part A, Part B, and medicare advantage Part C with the following conditions:~~

~~(i) Only the Part A and Part B deductible, coinsurance, and copayments up to the medicare or medicaid allowed amount, whichever is less (WAC 388-502-0110), if the service is covered by medicare and medicaid.~~

~~(ii) Only the deductible, coinsurance, and copayments up to the medicare allowed amount if the service is covered only by medicare.~~

~~(d) Copayments for QMB-eligible clients enrolled in medicare advantage Part C up to the medicare or medicaid allowed amount whichever is less (WAC 388-502-0110).~~

~~(e) QMB Part A and/or Part B premiums the first of the month following the month the QMB eligibility is determined)) medicare Part A premiums (if any) and medicare Part B premiums the first of the month following the month the QMB eligibility is determined. The agency pays, in accordance with WAC 182-502-0110, medicare coinsurance, deductibles, and copayments for medicare Part A, Part B and medicare advantage Part C.~~

(2) For specified low-income medicare beneficiary (SLMB) clients, the ((department)) agency pays medicare Part B premiums effective up to three months prior to the certification period if eligible for those months. No other payments are made for SLMBs. For clients eligible for both SLMB and medicaid, the agency pays medicare Part B premiums and other medical costs in accordance with WAC 182-502-0110.

(3) For qualified individual (QI-1) clients, the ((department)) agency pays medicare Part B premiums effective up to three months prior to the certification period if eligible for those months unless:

(a) The client receives medicaid categorically needy (CN) or medically needy (MN) benefits; and/or

(b) The ((department's)) agency's annual federal funding allotment is spent. The ((department)) agency resumes QI-1 benefit payments the beginning of the next calendar year.

(4) For qualified disabled working individual (QDWI) clients, the ((department)) agency pays medicare Part A premiums effective

up to three months prior to the certification period if eligible for those months. The ~~((department))~~ agency stops paying medicare Part A premiums if the client begins to receive CN or MN medicaid.

(5) For state-funded medicare buy-in program clients, the ~~((department))~~ agency pays ~~((=~~

~~(a) Medicare Part B premiums; and~~

~~(b) Only the Part A and B co-insurance, deductibles, and copayments up to the medicare or medicaid allowed amount, whichever is less (WAC 388-502-0110), if the service is covered by medicare and medicaid.~~

~~(6) For the dual-eligible client, (a client receiving both medicare and CN or MN medical coverage) the department pays as follows:~~

~~(a) If the service is covered by medicare and medicaid, medicaid pays only the deductible, and coinsurance up to the medicare or medicaid allowed amount, whichever is less (WAC 388-502-0110); and~~

~~(b) Copayments for medicare advantage Part C up to the medicare or medicaid allowed copayment amount, whichever is less (WAC 388-502-0110);~~

~~(c) If no medicaid rate exists, the department will deny payment unless the client is also QMB then refer to section (1) above), in accordance with WAC 182-502-0110, medicare Part B premiums. Cost sharing for medicare deductibles, copayments and coinsurance is paid by the categorically needy (CN) or medically needy (MN) medicaid program.~~