



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: January 22, 2018

TIME: 9:12 AM

WSR 18-03-130

Agency: Health Care Authority

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

- Preproposal Statement of Inquiry was filed as WSR 17-17-010 ; 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); or
- Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject)
WAC 182-545-200 Outpatient rehabilitation (occupational therapy, physical therapy, and speech therapy)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
February 27, 2018	10:00 AM	Health Care Authority Cherry Street Plaza Sue Crystal Conf Rm 106A 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than February 28, 2018 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: HCA Rules Coordinator
 Address: PO Box 42716, Olympia WA 98504-2716
 Email: arc@hca.wa.gov
 Fax: 360) 586-9727
 Other:
 By (date) February 27, 2018

Assistance for persons with disabilities:

Contact Amber Lougheed
 Phone: (360) 725-1349
 Fax: (360) 586-9727
 TTY: (800) 848-5429 or 711
 Email: amber.lougheed@hca.wa.gov
 Other:
 By (date) February 23, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is revising this section to align with current professional licensing requirements in RCW 18.35.040 for speech language pathologists.

Reasons supporting proposal: See purpose

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:

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

Name of proponent: (person or organization) Health Care Authority

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Vance Taylor	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Jean Gowen	PO Box 42716, Olympia WA 98504-2716	360-725-2005
Enforcement:	Jean Gowen	PO Box 42716, Olympia WA 98504-2716	360-725-2005

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

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:
TTY:
Email:
Other:

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.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 18.35.040.

Explanation of exemptions, if necessary: These changes are specifically dictated by statute in RCW 18.35.040, and mirror the requirement of the Department of Health under WAC 246-828-105


COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
 Address:
 Phone:
 Fax:
 TTY:
 Email:
 Other:

Date: January 22, 2018	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-545-200 Outpatient rehabilitation (occupational therapy, physical therapy, and speech therapy). (1) The following health professionals may enroll with the medicaid agency, as defined in WAC 182-500-0010, to provide outpatient rehabilitation (which includes occupational therapy, physical therapy, and speech therapy) within their scope of practice to eligible ~~((persons))~~ clients:

- (a) A physiatrist;
- (b) A licensed occupational therapist;
- (c) A licensed occupational therapy assistant (OTA) supervised by a licensed occupational therapist;
- (d) A licensed physical therapist;
- (e) A physical therapist assistant supervised by a licensed physical therapist;
- (f) A licensed speech-language pathologist ~~((who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;~~
- ~~(g) A speech language pathologist who has completed the equivalent educational and work experience necessary for such a certificate; and~~
- ~~(h))~~; and
- (g) A licensed optometrist to provide vision occupational therapy only.

(2) ~~((Persons))~~ Clients covered by one of the Washington apple health programs listed in the table in WAC 182-501-0060 or receiving home health care services as described in chapter 182-551 WAC (subchapter II) are eligible to receive outpatient rehabilitation as described in this chapter.

(3) ~~((Persons who are))~~ Clients enrolled in an agency-contracted managed care organization (MCO) must arrange for outpatient rehabilitation directly through ~~((his or her))~~ their agency-contracted MCO.

(4) The agency pays for outpatient rehabilitation when the services are:

- (a) Covered;
- (b) Medically necessary;
- (c) Within the scope of the eligible person's medical care program;
- (d) Ordered by:
 - (i) A physician, physician assistant (PA), or an advanced registered nurse practitioner (ARNP); or
 - (ii) An optometrist, if the ordered services are for occupational therapy only.
- (e) Within currently accepted standards of evidence-based medical practice;
- (f) Authorized, as required within this chapter, under chapters 182-501 and 182-502 WAC ~~((τ))~~ and the agency's published billing instructions ~~((and provider notices))~~;
- (g) Begun within thirty calendar days of the date ordered;
- (h) Provided by one of the health professionals listed in subsection (1) of this section;
- (i) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions ~~((and provider notices))~~; and
- (j) Provided as part of an outpatient treatment program:

(i) In an office or outpatient hospital setting;
(ii) In the home, by a home health agency as described in chapter 182-551 WAC;

(iii) In a neurodevelopmental center, as described in WAC 182-545-900; or

(iv) For children with disabilities, age two or younger, in natural environments including the home and community setting in which children without disabilities participate, to the maximum extent appropriate to the needs of the child.

(5) For eligible (~~persons,~~) clients age twenty (~~years of age~~) and younger, the agency covers unlimited outpatient rehabilitation.

(6) For (~~persons~~) clients age twenty-one (~~years of age~~) and older, the agency covers a limited outpatient rehabilitation benefit.

(7) Outpatient rehabilitation services for (~~persons~~) clients age twenty-one (~~years of age~~) and older must:

(a) Restore, improve, or maintain the person's level of function that has been lost due to medically documented injury or illness; and

(b) Include an on-going management plan for the (~~person and/or the person's~~) client or the client's caregiver to support timely discharge and continued progress.

(8) For eligible (~~adults,~~) clients age twenty-one (~~years of age~~) and older, the agency limits coverage of outpatient rehabilitation as follows:

(a) Occupational therapy, per person, per year:

(i) Without authorization:

(A) One occupational therapy evaluation;

(B) One occupational therapy reevaluation at time of discharge;

and

(C) Twenty-four units of occupational therapy, (~~(+)~~)which (~~equals~~) is approximately six hours(~~(+)~~).

(ii) With expedited prior authorization, up to twenty-four additional units of occupational therapy may be available to continue treatment initiated under the original twenty-four units when the criteria below is met:

(A) To continue treatment of the original qualifying condition;

and

(B) The (~~person's~~) client's diagnosis is any of the following:

(I) Acute, open, or chronic nonhealing wounds;

(II) Brain injury, which occurred within the past twenty-four months, with residual cognitive (~~and/or~~) or functional deficits;

(III) Burns - Second or third degree only;

(IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual cognitive (~~and/or~~) or functional deficits;

(V) Lymphedema;

(VI) Major joint surgery - Partial or total replacement only;

(VII) Muscular-skeletal disorders such as complex fractures (~~which~~) that required surgical intervention, or (~~surgeries~~) surgery involving the spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);

(VIII) Neuromuscular disorders (~~which~~) that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polynneuritis (Guillain-Barre));

(IX) Reflex sympathetic dystrophy;

(X) Swallowing deficits due to injury or surgery to the face, head, or neck;

(XI) Spinal cord injury (~~(which)~~) that occurred within the past twenty-four months, resulting in paraplegia or quadriplegia; or

(XII) As part of a botulinum toxin injection protocol when botulinum toxin has been prior authorized by the agency.

(b) Physical therapy, per person, per year:

(i) Without authorization:

(A) One physical therapy evaluation;

(B) One physical therapy reevaluation at time of discharge; and

(C) Twenty-four units of physical therapy, ~~((+))~~which ~~((equals))~~ is approximately six hours~~((+))~~.

(ii) With expedited prior authorization, up to twenty-four additional units of physical therapy may be available to continue treatment initiated under the original twenty-four units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The person's diagnosis is any of the following:

(I) Acute, open, or chronic nonhealing wounds;

(II) Brain injury, which occurred within the past twenty-four months, with residual functional deficits;

(III) Burns - Second ~~((and/or))~~ or third degree only;

(IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual functional deficits;

(V) Lymphedema;

(VI) Major joint surgery - Partial or total replacement only;

(VII) Muscular-skeletal disorders such as complex fractures (~~(which)~~) that required surgical intervention, ~~or ((surgeries))~~ surgery involving the spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);

(VIII) Neuromuscular disorders (~~(which)~~) that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));

(IX) Reflex sympathetic dystrophy;

(X) Spinal cord injury, which occurred within the past twenty-four months, resulting in paraplegia or quadriplegia; or

(XI) As part of a botulinum toxin injection protocol when botulinum toxin has been prior ~~((approved))~~ authorized by the agency.

(c) Speech therapy, per person, per year:

(i) Without authorization:

(A) One speech language pathology evaluation;

(B) One speech language pathology reevaluation at the time of discharge; and

(C) Six units of speech therapy, ~~((+))~~which ~~((equals))~~ is approximately six hours~~((+))~~.

(ii) With expedited prior authorization, up to six additional units of speech therapy may be available to continue treatment initiated under the original six units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The person's diagnosis is any of the following:

(I) Brain injury, which occurred within the past twenty-four months, with residual cognitive ~~((and/or))~~ or functional deficits;

(II) Burns of internal organs such as nasal oral mucosa or upper airway;

(III) Burns of the face, head, and neck - Second or third degree only;

- (IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual functional deficits;
- (V) Muscular-skeletal disorders such as complex fractures (~~(which)~~) that require surgical intervention or surgery involving the vault, base of the skull, face, cervical column, larynx, or trachea;
- (VI) Neuromuscular disorders (~~(which)~~) that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infection polynneuritis (Guillain-Barre));
- (VII) Speech deficit due to injury or surgery to the face, head, or neck;
- (VIII) Speech deficit (~~(which)~~) that requires a speech generating device;
- (IX) Swallowing deficit due to injury or surgery to the face, head, or neck; or
- (X) As part of a botulinum toxin injection protocol when botulinum toxin has been prior (~~(approved)~~) authorized by the agency.
- (d) Durable medical equipment (DME) needs assessments, two per person, per year.
- (e) Orthotics management and training of upper (~~(and/or)~~) or lower extremities, or both, two program units, per person, per day.
- (f) (~~(Orthotic/prosthetic)~~) Orthotic or prosthetic use, two program units, per person, per year.
- (g) Muscle testing, one procedure, per person, per day. Muscle testing procedures cannot be billed in combination with each other. These procedures can be billed alone or with other physical and occupational therapy procedures.
- (h) Wheelchair needs assessment, one per person, per year.
- (9) For the purposes of this chapter:
- (a) Each fifteen minutes of timed procedure code equals one unit; and
- (b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.
- (10) For expedited prior authorization (EPA):
- (a) A provider must establish that:
- (i) The person's condition meets the clinically appropriate EPA criteria outlined in this section; and
- (ii) The services are expected to result in a reasonable improvement in the person's condition and achieve the person's therapeutic individual goal within sixty calendar days of initial treatment;
- (b) The appropriate EPA number must be used when the provider bills the agency;
- (c) Upon request, a provider must provide documentation to the agency showing how the person's condition met the criteria for EPA; and
- (d) A provider may request expedited prior authorization once per year, per person, per each therapy type.
- (11) The agency evaluates (~~(a request for outpatient rehabilitation that is in excess of the limitations or restrictions, according to)~~) limitation extension (LE) requests regarding scope, amount, duration, and frequency of covered health care services under WAC 182-501-0169. ((Prior authorization may be requested)) Providers may submit LE requests for additional units when:
- (a) The criteria for an expedited prior authorization does not apply;
- (b) The number of available units under the EPA have been used and services are requested beyond the limits; or

(c) A new qualifying condition arises after the initial six visits are used.

(12) Duplicate services for outpatient rehabilitation are not allowed for the same person when both providers are performing the same or similar procedure(s).

(13) The agency does not pay separately for outpatient rehabilitation that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

(14) The agency does not reimburse a health care professional for outpatient rehabilitation performed in an outpatient hospital setting when the health care professional is not employed by the hospital. The hospital must bill the agency for the services.