



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: May 23, 2018

TIME: 11:11 AM

WSR 18-11-137

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-07-093 ; 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 182-552-1000 Respiratory care—Covered—Respiratory and ventilator equipment and supplies;

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
June 26, 2018	10:00 AM	Health Care Authority Cherry Street Plaza Sue Crystal Conf Room 106A 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than June 27, 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) June 26, 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) June 22, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is revising this section to (1) clarify the clinical criteria for the rental of a back-up ventilator; (2) revise the authorization requirements for ventilators; and (3) remove the outdated clinical criteria for ventilators for clients 17 years of age and younger

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:	Joan Chappell	PO Box 42716, Olympia WA 98504-2716	360-725-1071
Enforcement:	Joan Chappell	PO Box 42716, Olympia WA 98504-2716	360-725-1071

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 _____.

Explanation of exemptions, if necessary:

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. The updates to these rules do not impose additional compliance costs or requirements on providers. The agency is reducing the requirements for authorization on all ventilators.

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: May 23, 2018	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-552-1000 (~~(Respiratory care)~~) Covered—Respiratory and ventilator equipment and supplies. (1) The medicaid agency covers the rental of a ventilator, equipment, and (~~related~~) disposable ventilator supplies when the (~~ventilator is~~) client requires periodic or continuous mechanical ventilation for the treatment of chronic respiratory failure (~~(chronic carbon dioxide retention)~~) resulting from hypoxemia or hypercapnia.

(2) The (~~medicaid~~) agency's payment for the monthly rental (~~rate~~) includes ventilator maintenance and accessories including, but not limited to, humidifiers, nebulizers, alarms, temperature probes, batteries, chargers, adapters, connectors, fittings, tubing, disposable circuits, and filters. The (~~medicaid~~) agency does not pay separately for ventilator accessories unless the client owns the ventilator system, see subsection (5) of this section.

(3) To receive payment, ventilators, equipment, and related disposable supplies must:

- (a) Be used exclusively by the client for whom it is requested;
- (b) Be FDA-approved; and
- (c) Not be included in any other reimbursement methodology such as, but not limited to, a diagnosis-related group (DRG).

(4) The (~~medicaid~~) agency pays for a back-up (secondary) ventilator at fifty percent of the monthly rental rate when one or more of the following clinical criteria are met:

- (a) The client cannot maintain spontaneous or adequate ventilations for four or more consecutive hours;
- (b) The client lives in an area where a replacement ventilator cannot be provided within two hours;
- (c) The client requires mechanical ventilation during mobility as prescribed in their plan of care.

(5) The (~~medicaid~~) agency pays for the purchase of the following replacement ventilator accessories only for client-owned ventilator systems:

- (a) Gel-cell battery charger - One every twenty-four months;
- (b) (~~Gel-cell~~) Gel-cell heavy-duty battery - One every twenty-four months;
- (c) Battery cables - Once every twenty-four months; and
- (d) Breathing circuits - Four every thirty days.

(6) (~~Pressure support ventilators.~~

~~(a) For clients eighteen years of age and older, the medicaid agency requires prior authorization;~~

~~(b) For clients seventeen years of age and younger, the medicaid agency requires expedited prior authorization (EPA).~~

~~(i) The following criteria must be met in order to use the EPA process:~~

- ~~(A) The client is currently using a pressure support ventilator;~~
- ~~(B) The client must be able to take spontaneous breaths;~~
- ~~(C) There must be an authorized prescriber's order for the pressure support setting; and~~
- ~~(D) The client must be utilizing the ventilator in the pressure support mode.~~

~~(ii) If the client has no clinical potential for weaning, the medicaid agency's EPA is valid for twelve months; or~~

~~(iii) If the client has the potential to be weaned, then the medicaid agency's EPA is valid for six months;~~

~~(iv) To continue using EPA after the valid time period has lapsed, a vendor must document in the client's file that the client continues to meet the EPA criteria for a pressure support ventilator.) All ventilators require expedited prior authorization (EPA), as described in WAC 182-552-1375.~~

(a) At the time of authorization, the following information must be documented in the client's record and made available to the agency upon request:

(i) Medical history, unless request is for continuation of services;

(ii) Diagnosis and degree of impairment;

(iii) Degree of ventilatory support required; and

(iv) Ventilator settings and parameters including mode and type of ventilator ordered at the time of the authorization.

(b) If the client has no clinical potential for being weaned from ventilatory support, the EPA is valid for twelve months;

(c) If the client has the potential to be weaned, the EPA is valid for six months.