



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: September 04, 2019

TIME: 11:52 AM

WSR 19-18-100

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-11-097 ; 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 182-502-0012 When the medicaid agency does not enroll

WAC 182-502-0040 Termination of a provider agreement – For convenience

WAC 182-502-0060 Reapplying for participation.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|-----------------|----------|--|--|
| October 8, 2019 | 10:00 AM | Health Care Authority Cherry Street Plaza Sue Crystal 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 October 9, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Wendy Barcus

Address: PO Box 42716, Olympia WA 98504-2716

Email: arc@hca.wa.gov

Fax: (360) 586-9727

Other:

By (date) October 8, 2019

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) September 27, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WAC 182-502-0012(5) and WAC 182-502-0040(2) to allow providers to request the agency to reconsider agency decisions to deny enrollment applications, and to request the agency to reconsider terminations of a provider agreement for convenience. The reconsideration process being added to 182-502-0012 is a separate process from the reconsideration process in Chapter 182-526 WAC and separate from the dispute resolution process in WAC 182-502-0050. The agency is amending WAC 182-502-0060 to remove subsections (1) and (2) that prohibit providers from reapplying for participation after the agency denies enrollment or removes a provider from participation. The agency has determined that the rules need to be amended to allow for due process and for reporting purposes.

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: | Amy Emerson | PO Box 42716, Olympia WA 98504-2716 | 360-725-1348 |
| Implementation: | Trudi Glant | PO Box 45504, Olympia WA 98504-2716 | 360-725-1795 |
| Enforcement: | Trudi Glant | PO Box 45504, Olympia WA 98504-2716 | 360-725-1795 |

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)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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 WACs 182-502-0012, 182-502-0040, and 182-502-0060 do not impose additional compliance costs or requirements on providers.

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: September 4, 2019

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-502-0012 When the medicaid agency does not enroll. (1)

The medicaid agency does not enroll a health care professional, health care entity, supplier, or contractor of service for reasons which include, but are not limited to, the following:

(a) The agency determines that:

(i) There is a quality of care issue with significant risk factors that may endanger client health, or safety, or both (see WAC 182-502-0030 (1)(a)); or

(ii) There are risk factors that affect the credibility, honesty, or veracity of the health care practitioner (see WAC 182-502-0030 (1)(b)).

(b) The health care professional, health care entity, supplier or contractor of service:

(i) Is excluded from participation in medicare, medicaid or any other federally funded health care program;

(ii) Has a current formal or informal pending disciplinary action, statement of charges, or the equivalent from any state or federal professional disciplinary body at the time of initial application;

(iii) Has a suspended, terminated, revoked, or surrendered professional license as defined under chapter 18.130 RCW;

(iv) Has a restricted, suspended, terminated, revoked, or surrendered professional license in any state;

(v) Is noncompliant with the department of health or other state health care agency's stipulation of informal disposition, agreed order, final order, or similar licensure restriction;

(vi) Is suspended or terminated by any agency within the state of Washington that arranges for the provision of health care;

(vii) Fails a background check, including a fingerprint-based criminal background check, performed by the agency. See WAC 182-502-0014 and 182-502-0016; or

(viii) Does not have sufficient liability insurance according to WAC 182-502-0016 for the scope of practice, to the extent the health care professional, health care entity, supplier or contractor of service is not covered by the Federal Tort Claims Act, including related rules and regulations.

(c) A site visit under 42 C.F.R. 455.432 reveals that the provider has failed to comply with a state or federal requirement.

(2) The agency may not pay for any health care service, drug, supply or equipment prescribed or ordered by a health care professional, health care entity, supplier or contractor of service whose application for a core provider agreement (CPA) has been denied or terminated.

(3) The agency may not pay for any health care service, drug, supply, or equipment prescribed or ordered by a health care professional, health care entity, supplier or contractor of service who does not have a current CPA with the agency when the agency determines there is a potential danger to a client's health and/or safety.

(4) Nothing in this chapter precludes the agency from entering into other forms of written agreements with a health care professional, health care entity, supplier or contractor of service.

(5) If the agency denies an enrollment application under this section, the applicant ~~((does not have any dispute rights within the agency))~~ may request that the agency reconsider the denial.

(a) The agency's decision at reconsideration is the agency's final decision.

(b) The agency reconsiders the applicant according to the process and guidelines outlined in subsections (1) through (4) of this section.

(c) The reconsideration process in this section is unrelated to the reconsideration process described in chapter 182-526 WAC.

(6) Under 42 C.F.R. 455.470, the agency:

(a) Will impose a temporary moratorium on enrollment when directed by CMS; or

(b) May initiate and impose a temporary moratorium on enrollment when approved by CMS.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0040 Termination of a provider agreement—For convenience. (1) Either the ((department)) medicaid agency or the provider may terminate the provider's participation with the ((department)) agency for convenience with thirty calendar days written notice served upon the other party in a manner which provides proof of receipt or proof of valid attempt to deliver.

(2) Terminations for convenience are not eligible for the dispute resolution process described in WAC ((388-502-0050)) 182-502-0050. Terminations for convenience are eligible for reconsideration as described in WAC 182-502-0012.

(3) If a provider is terminated for convenience, the ((department)) agency pays for authorized services provided up to the date of termination only.

AMENDATORY SECTION (Amending WSR 15-15-050, filed 7/9/15, effective 8/9/15)

WAC 182-502-0060 Reapplying for participation. ((1)) ~~Providers who are denied enrollment or removed from participation are not eligible to reapply for participation with the medicaid agency for five years from the date of denial or termination.~~

~~(2) Providers who are denied enrollment or removed from participation more than once are not eligible to reapply for participation with the agency.~~

~~(3))~~ A provider who is terminated solely under WAC 182-502-0030(3) is eligible for immediate reapplication with the medicaid agency if the provider is not a full or partial owner of a terminated group practice.