



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: October 02, 2019

TIME: 10:44 AM

WSR 19-20-119

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-10-061 ; 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) 182-543-1100 Client eligibility; 182-543-4200 Wheelchairs – Power-drive

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 5, 2019	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: 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 November 6, 2019 (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) November 5, 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) October 25, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The agency is making changes to two sections in the medical equipment chapter. In WAC 182-543-1100(6), the agency is removing the requirement that a client enrolled in the alternative benefits plan have a qualifying condition to receive habilitative services. This revision aligns with WAC 182-545-400 – Habilitative services.

In WAC 182-543-4200, the agency is clarifying the differences between adults and children who use power-drive wheelchairs by creating separate subsections. The rule clarifies that the agency pays for medically necessary power-drive wheelchairs that are prior authorized. In addition to the criteria set out in the rule, subsection (1)(c) states that the agency may pay for power wheelchairs on a case-by-case basis when prior authorized. Subsection (2) clarifies that the agency reviews requests

for power wheelchairs for eligible children under the EPSDT program. Subsection (6) clarifies that the agency pays for more than one wheelchair when medically necessary for the client.

Reasons supporting proposal: Eligibility criteria for power wheelchairs is different for adults and children, and separating this information helps clarify the rule.

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? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes 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

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Melinda Froud	PO Box 42716, Olympia, WA 98504-2716	360-725-1408
Implementation:	Erin Mayo	PO Box 45506, Olympia, WA 98504-5506	360-725-1729
Enforcement:	Erin Mayo	PO Box 45506, Olympia, WA 98504-5506	360-725-1729

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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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. This rule does not impose any costs on businesses.
- 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: October 2, 2019

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

WAC 182-543-1100 Client eligibility. (1) Refer to the table in WAC 182-501-0060 to see which Washington apple health programs include home health services, including medical equipment and related services, in their benefit package.

(2) For clients eligible under an alien emergency medical (AEM) program, see WAC 182-507-0115.

(3) Clients who are eligible for services under medicare and medicaid (medically needy program-qualified medicare beneficiaries) are eligible for medical equipment and related services.

(4) Clients who are enrolled in a medicaid agency-contracted managed care organization (MCO) must arrange for medical equipment and related services directly through the client's agency-contracted MCO. The agency does not pay for medical equipment or services provided to a client who is enrolled in an agency-contracted MCO, but chose not to use one of the MCO's participating providers.

(5) For clients who reside in a skilled nursing facility, see WAC 182-543-5700.

(6) Clients enrolled in the alternative benefits plan (defined in WAC 182-500-0010) are eligible for medical equipment when used as a habilitative service (~~(to treat a qualifying condition)~~) in accordance with WAC 182-545-400.

AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

WAC 182-543-4200 Covered wheelchairs—Power-drive. The medicaid agency pays for medically necessary power-drive wheelchairs when prior authorized.

(1) **Adults.**

(a) The medicaid agency pays for power-drive wheelchairs for clients age twenty-one and older when the prescribing physician certifies that the following clinical criteria are met:

~~((a))~~ (i) The client can (~~(independently)~~) effectively and safely operate a power-drive wheelchair;

~~((b))~~ (ii) The client's medical condition (~~(negates)~~) prevents the (~~(client's ability to self-propel)~~) client from self-propelling any of the wheelchairs listed in the manual wheelchair category (~~(in any setting where normal life activities take place; and~~

~~(c))~~ .

(b) A power-drive wheelchair will ~~(provide)~~ provide the client the only means of independent mobility in any setting where normal life activities take place (~~(if or~~

~~(ii) Enable a child to achieve age-appropriate independence and developmental milestones).~~

(c) The agency may also pay for power wheelchairs on a case-by-case basis when prior authorized as described in WAC 182-501-0165. The agency determines medical necessity based on documentation submitted by the provider.

(2) Children. The agency reviews requests for power wheelchairs for a person age twenty and younger using the standard for coverage under the EPSDT program according to the provisions of WAC 182-534-0100.

(3) Three or four wheeled power-drive scooters/power-operated vehicles (POV). Additionally, for a three or four-wheeled power-drive scooter/power-operated vehicle (POV), the prescribing physician must certify the client's condition is unlikely to require a standard power-drive wheelchair within the next two years.

~~((3))~~ (4) Client's primary wheelchair. When the agency approves a power-drive wheelchair for a client who already has a manual wheelchair, the power-drive wheelchair becomes the client's primary chair, unless the client meets the criteria in subsection ~~((5))~~ (6) of this section.

~~((4))~~ (5) Payment for primary wheelchair. The agency pays to maintain only the client's primary wheelchair, unless the conditions of subsection ~~((6))~~ (7) of this section apply.

~~((5))~~ (6) Approval for more than one wheelchair. The agency pays for one manual wheelchair and one power-drive wheelchair for non-institutionalized clients ~~((only when one of the following circumstances applies))~~ when medically necessary for the client to have mobility in all settings where the client's normal life activities take place. Situations that demonstrate medical necessity include, but are not limited to, the following:

(a) The architecture of locations where the client's normal life activities take place are completely unsuitable for a power-drive wheelchair, due to conditions such as narrow hallways, narrow doorways, steps at the entryway, and insufficient turning radius;

(b) The architecture of the bathroom in locations where the client's normal life activities take place is such that power-drive wheelchair access is not possible, and the client needs a manual wheelchair to safely and successfully complete bathroom activities and maintain personal cleanliness; or

(c) The client has a power-drive wheelchair, but also requires a manual wheelchair because the power-drive wheelchair cannot be transported to meet the client's community, workplace, or educational activities. In this case, the manual wheelchair would allow the caregiver to transport the client in a standard automobile or van. The agency requires the client's situation to meet the following conditions:

(i) The client's activities that require the second wheelchair must be located farther than one-fourth of a mile from the client's home or along a pathway that does not provide for safe use of a power wheelchair; and

(ii) Cabulance, public buses, or personal transit are not available, practical, or possible for financial or other reasons.

~~((6))~~ (7) Payment for more than one wheelchair. When the agency approves both a manual wheelchair and a power-drive wheelchair for a noninstitutionalized client who meets one of the circumstances in subsection ~~((5))~~ (6) of this section, the agency pays to maintain both wheelchairs.