



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: August 18, 2020

TIME: 10:48 AM

WSR 20-17-122

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-14-056 ; 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 182-538-060 Managed care choice and assignment

WAC 182-538-067 Qualifications to become a managed care organization in integrated managed care

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 22, 2020	10:00 AM	In light of the current public health emergency and the Governor's Safe Start plan, it is unknown whether, by the date of this public hearing, restrictions on meeting in public places will be eased. Therefore, this hearing is being held virtually only. This will not be an in-person hearing and there is not a physical location available	To attend, you must register prior to the public hearing (September 22, 2020, 10:00 AM Pacific Time) at: https://attendee.gotowebinar.com/register/3519612995422083086 Webinar ID 725-281-419 After registering, you will receive a confirmation email containing information about joining the webinar.

Date of intended adoption: Not sooner than September 23, 2020 (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) September 22, 2020

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 11, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WAC 182-538-060 and 182-538-067 to help ensure (1) the viability of Apple Health Integrated Managed Care (IMC) plans; (2) adequate performance by the IMC plans; (3) sufficient access to care for Medicaid clients in IMC; and (4) the continued availability of an adequate network of physical and behavioral health providers in IMC plans. HCA is amending WAC 182-538-060 to limit the auto-assignments of Medicaid clients to IMC plans. In particular, HCA will prevent auto-assignments of new clients to any plan that has a statewide market share of greater than 40% in Apple Health IMC. This rule does not affect voluntary plan choices by clients, the Family Connect policy, or the Plan Reconnect policy. HCA is amending WAC 182-538-067 to clarify when the agency will adjust the number of its IMC plans, either overall or on a region-to-region basis. In determining whether to make any such adjustment, HCA will consider statutory requirements as well as enrollment needs, the performance of the plans with respect to behavioral health integration, and the promotion of access to care for behavioral health services.

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:	Brian Jensen	PO Box 42716, Olympia WA 98504-2716	360-725-0815
Implementation:	Alice Lind	PO Box 45530, Olympia WA 98504-5530	360-725-2053
Enforcement:	Alice Lind	PO Box 45530, Olympia WA 98504-5530	360-725-2053

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. The rules do not impose additional 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: August 18, 2020	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-538-060 Managed care choice and assignment. (1) The medicaid agency requires a client to enroll in integrated managed care (IMC) when that client:

(a) Is eligible for one of the Washington apple health programs for which enrollment is mandatory;

(b) Resides in an area where enrollment is mandatory; and

(c) Is not exempt from IMC enrollment and the agency has not ended the client's managed care enrollment, consistent with WAC 182-538-130.

(2) American Indian and Alaska native (AI/AN) clients and their descendants may choose one of the following:

(a) Enrollment with a managed care organization (MCO) available in their regional service area;

(b) Enrollment with a PCCM provider through a tribal clinic or urban Indian center available in their area; or

(c) The agency's fee-for-service system for physical health or behavioral health or both.

(3) To enroll with an MCO or PCCM provider, a client may:

(a) Enroll online via the Washington Healthplanfinder at <https://www.wahealthplanfinder.org>;

(b) Call the agency's toll-free enrollment line at 800-562-3022; or

(c) Go to the ProviderOne client portal at <https://www.waproviderone.org/client> and follow the instructions.

(4) An enrollee in IMC must enroll with an MCO available in the regional service area where the enrollee resides.

(5) All family members will be enrolled with the same MCO, except family members of an enrollee placed in the patient review and coordination (PRC) program under WAC 182-501-0135 need not enroll in the same MCO as the family member placed in the PRC program.

(6) An enrollee may be placed into the PRC program by the MCO or the agency. An enrollee placed in the PRC program must follow the enrollment requirements of the program as stated in WAC 182-501-0135.

(7) When a client requests enrollment with an MCO or PCCM provider, the agency enrolls a client effective the earliest possible date given the requirements of the agency's enrollment system.

(8) The agency assigns a client who does not choose an MCO or PCCM provider as follows:

(a) If the client was enrolled with an MCO or PCCM provider within the previous six months, the client is reenrolled with the same MCO or PCCM provider;

(b) If (a) of this subsection does not apply and the client has a family member enrolled with an MCO, the client is enrolled with that MCO;

(c) The client is reenrolled within the previous six months with their prior MCO plan if:

(i) The agency identifies the prior MCO and the program is available; and

(ii) The client does not have a family member enrolled with an agency-contracted MCO or PCCM provider.

(d) If the client has a break in eligibility of less than two months, the client will be automatically reenrolled with his or her previous MCO or PCCM provider and no notice will be sent; or

(e) If the client cannot be assigned according to (a), (b), (c), or (d) of this subsection, the agency (~~assigns the client according to agency policy~~):

(i) Assigns the client according to agency policy, or this rule, or both;

(ii) Does not assign clients to any MCO that has a total statewide market share of forty percent or more of clients who are enrolled in apple health IMC. On a quarterly basis, the agency reviews enrollment data to determine each MCO's statewide market share in apple health IMC;

(iii) Applies performance measures associated with increasing or reducing assignment consistent with this rule and agency policy or its contracts with MCOs.

(f) If the client cannot be assigned according to (a) or (b) of this subsection, the agency assigns the client as follows:

(i) If a client who is not AI/AN does not choose an MCO, the agency assigns the client to an MCO available in the area where the client resides. The MCO is responsible for primary care provider (PCP) choice and assignment.

(ii) For clients who are newly eligible or who have had a break in eligibility of more than six months, the agency sends a written notice to each household of one or more clients who are assigned to an MCO. The assigned client has ten calendar days to contact the agency to change the MCO assignment before enrollment is effective. The notice includes:

(A) The agency's toll-free number;

(B) The toll-free number and name of the MCO to which each client has been assigned;

(C) The effective date of enrollment; and

(D) The date by which the client must respond in order to change the assignment.

(9) An MCO enrollee's selection of a PCP or assignment to a PCP occurs as follows:

(a) An MCO enrollee may choose:

(i) A PCP or clinic that is in the enrollee's MCO and accepting new enrollees; or

(ii) A different PCP or clinic participating with the enrollee's MCO for different family members.

(b) The MCO assigns a PCP or clinic that meets the access standards set forth in the relevant managed care contract if the enrollee does not choose a PCP or clinic.

(c) An MCO enrollee may change PCPs or clinics in an MCO for any reason, with the change becoming effective no later than the beginning of the month following the enrollee's request.

(d) An MCO enrollee may file a grievance with the MCO if the MCO does not approve an enrollee's request to change PCPs or clinics.

(e) MCO enrollees required to participate in the agency's PRC program may be limited in their right to change PCPs (see WAC 182-501-0135).

WAC 182-538-067 Qualifications to become a managed care organization (MCO) in integrated managed care. (1) To provide physical or behavioral health services under the apple health IMC ((medicaid)) contract, a managed care organization (MCO) must:

(a) ~~((An MCO must))~~ Contract with the agency((-)); and
(b) ~~((MCO must also))~~ Contract with an agency-contracted behavioral health administrative service organization (BH-ASO) that maintains an adequate provider network to deliver services to clients in IMC regional service areas.

(2) ~~((A managed care organization (-))~~ An MCO((+)) must meet the following qualifications to be eligible to contract with the ((medicaid)) agency:

(a) Have a certificate of registration from the Washington state office of the insurance commissioner (OIC) that allows the MCO to provide health care services under a risk-based contract;

(b) Accept the terms and conditions of the agency's managed care contract;

(c) ~~((Be able to))~~ Meet the network and quality standards established by the agency; and

(d) Pass a readiness review, including an on-site visit conducted by the agency.

(3) ~~((At its discretion, the agency awards a contract to an MCO through a competitive process or an application process available to all qualified providers.))~~ (a) The agency may from time to time conduct a procurement for new apple health MCOs or to reduce or expand the use of existing apple health MCOs.

(b) The agency may conduct a procurement when the agency determines in its sole discretion there is a need to:

(i) Expand or reduce current MCO contracts;

(ii) Enhance current MCO provider networks; or

(iii) Establish new contracts for integrated managed care in one or more regional services areas; or

(iv) Adjust the program to ensure adherence to state and federal law.

(c) In accordance with RCW 74.09.522 and 74.09.871, the agency will give significant weight to the following factors in any procurement process:

(i) Demonstrated commitment to, and experience in, serving low-income populations;

(ii) Demonstrated commitment to, and experience in, serving persons who have mental illness, substance use disorders, or co-occurring disorders;

(iii) Demonstrated commitment to, and experience with, partnerships with county and municipal criminal justice systems, housing services, and other critical support services necessary to achieve the outcomes established in RCW 70.320.020, 71.24.435, and 71.36.025;

(iv) Recognition that meeting enrollees' physical and behavioral health care needs is a shared responsibility of contracted behavioral health administrative services organizations, MCOs, service providers, the state, and communities;

(v) Consideration of past and current performance and participation in other state or federal behavioral health programs as a contractor;

(vi) Quality of services provided to enrollees under previous contracts with the state of Washington or other states;

(vii) Accessibility, including appropriate utilization, of services offered to enrollees;

(viii) Demonstrated capability to perform contracted services, including the ability to supply an adequate provider network; and

(ix) The ability to meet any other requirements established by the agency.

(d) The agency may define and consider additional factors as part of any procurement including, but not limited to:

(i) Timely processing of, and payments to, providers in the MCO networks, including reconciliation of outstanding payments; and

(ii) The optimal number of MCOs per regional services area, based on population and in the manner that the agency determines most beneficial for the program, clients, and providers.

(4) The agency reserves the right not to contract with any otherwise qualified MCO.