PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)
Do NOT use for expedited rule making

Agency: Health Care Authority

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

☒ Preproposal Statement of Inquiry was filed as WSR 21-15-102; 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 182-531-1850, Payment methodology for physician-related services—General and billing modifiers

Hearing location(s):

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location (be specific)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 9, 2021</td>
<td>10:00 AM</td>
<td>The Health Care Authority (HCA) remains closed in response to the coronavirus disease (COVID-19) public health emergency. Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington State</td>
<td>To attend the virtual public hearing, you must register in advance: <a href="https://zoom.us/webinar/register/WN_5E5op_X5q-dfxRP_a6EDg">https://zoom.us/webinar/register/WN_5E5op_X5q-dfxRP_a6EDg</a> After registering, you will receive a confirmation email containing information about joining the public hearing.</td>
</tr>
</tbody>
</table>

Date of intended adoption: Not sooner than November 10, 2021 (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 9, 2021

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 29, 2021
Purpose of the proposal and its anticipated effects, including any changes in existing rules: The 2021-2023 operating budget (Engrossed Substitute Senate Bill 5092, Sec. 211, (34)-(36)), included a proviso directing HCA to provide rate increases for behavioral health services, primary care services, and family planning services. HCA is amending WAC 182-531-1850, Payment methodology for physician-related services— General and billing modifiers, to allow for adjustment of rates as directed by the Legislature.

Reasons supporting proposal: See Purpose.

Statutory authority for adoption: RCW 41.05.021, RCW 41.05.160, and Engrossed Substitute Senate Bill 5092, Sec. 211, (34)-(36)

Statute being implemented: RCW 41.05.021, RCW 41.05.160, and Engrossed Substitute Senate Bill 5092, Sec. 211, (34)-(36)

Is rule necessary because of a:
  Federal Law? ☒ No
  Federal Court Decision? ☒ No
  State Court Decision? ☒ 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 ☒ Governmental

Name of agency personnel responsible for:

<table>
<thead>
<tr>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jason Crabbe</td>
<td>PO Box 42716, Olympia WA 98504-2716</td>
<td>360-725-9563</td>
</tr>
<tr>
<td>Wendy Steffens</td>
<td>PO Box 45500, Olympia WA 98504-5500</td>
<td>360-725-5145</td>
</tr>
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<td>360-725-5145</td>
</tr>
</tbody>
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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 ☒ No
  A preliminary cost-benefit analysis may be obtained by contacting:
  Name: 
  Address: 
  Phone: 
  Fax:
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:

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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: September 29, 2021

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature: [Signature]
AMENDATORY SECTION (Amending WSR 17-21-040, filed 10/12/17, effective 11/12/17)

WAC 182-531-1850 Payment methodology for physician-related services—General and billing modifiers.

GENERAL PAYMENT METHODOLOGY

(1) The medicaid agency bases the payment methodology for most physician-related services on medicare's RBRVS. The agency obtains information used to update the agency's RBRVS from the MPFSPS.

(2) The agency updates and revises the following RBRVS areas each January prior to the agency's annual update.

(3) The agency determines a budget-neutral conversion factor (CF) for each RBRVS update, by:
   (a) Determining the units of service and expenditures for a base period. Then,
   (b) Applying the latest medicare RVU obtained from the MPFSDB, as published in the MPFSPS, and GCPI changes to obtain projected units of service for the new period. Then,
   (c) Multiplying the projected units of service by conversion factors to obtain estimated expenditures. Then,
   (d) Comparing expenditures obtained in (c) of this subsection with base period expenditure levels. Then,
   (e) Adjusting the dollar amount for the conversion factor until the product of the conversion factor and the projected units of service at the new RVUs equals the base period amount.

(4) The agency calculates maximum allowable fees (MAFs) in the following ways:
   (a) For procedure codes that have applicable medicare RVUs, the three components (practice, malpractice, and work) of the RVU are:
      (i) Each multiplied by the statewide GPCI. Then,
      (ii) The sum of these products is multiplied by the applicable conversion factor. The resulting RVUs are known as RBRVS RVUs.
   (b) For procedure codes that have no applicable medicare RVUs, RSC RVUs are established in the following way:
      (i) When there are three RSC RVU components (practice, malpractice, and work):
         (A) Each component is multiplied by the statewide GPCI. Then,
         (B) The sum of these products is multiplied by the applicable conversion factor.
      (ii) When the RSC RVUs have just one component, the RVU is not GPCI adjusted and the RVU is multiplied by the applicable conversion factor.
   (c) For procedure codes with no RBRVS or RSC RVUs, the agency establishes maximum allowable fees, also known as "flat" fees.
      (i) The agency does not use the conversion factor for these codes.
      (ii) The agency updates flat fee reimbursement only when the legislature authorizes a vendor rate increase, except for the following categories which are revised annually during the update:
         (A) Immunization codes are reimbursed at the medicare Part B drug file price or POS AAC when there is no Part B rate. (See WAC 182-530-1050 for explanation of POS AAC.) When the provider receives immunization materials from the department of health, the agency pays only a flat fee for administering the immunization.
(B) A cast material maximum allowable fee is set using an average of wholesale or distributor prices for cast materials.

(iii) Other supplies are reimbursed at physicians' acquisition cost, based on manufacturers' price sheets. Reimbursement applies only to supplies that are not considered part of the routine cost of providing care (e.g., intrauterine devices (IUDs)).

(d) For procedure codes with no RVU or maximum allowable fee, the agency reimburses "by report." By report codes are reimbursed at a percentage of the amount billed for the service.

(e) For supplies that are dispensed in a physician's office and reimbursed separately, the provider's acquisition cost when flat fees are not established.

(f) The agency reimburses at acquisition cost those HCPCS J and Q codes that do not have flat fees established.

(5) The technical advisory group reviews RBRVS changes.

(6) The agency also makes fee schedule changes when the legislature grants a vendor rate increase and the effective date of that increase is not the same as the agency's annual update.

(7) If the legislatively authorized vendor rate increase, or other increase, becomes effective at the same time as the annual update, the agency applies the increase after calculating budget-neutral fees. The agency pays providers a higher reimbursement rate for primary health care E&M services that are provided to children age twenty and under.

(8) The agency may adjust rates to maintain or increase access to health care services as directed by the legislature.

(9) The agency does not allow separate reimbursement for bundled services. However, the agency allows separate reimbursement for items considered prosthetics when those items are used for a permanent condition and are furnished in a provider's office.

(10) Variations of payment methodology which are specific to particular services, and which differ from the general payment methodology described in this section, are included in the sections dealing with those particular services.

CPT/HCFA MODIFIERS

(11) A modifier is a code a provider uses on a claim in addition to a billing code for a standard procedure. Modifiers eliminate the need to list separate procedures that describe the circumstance that modified the standard procedure. A modifier may also be used for information purposes.

(12) Certain services and procedures require modifiers in order for the agency to reimburse the provider. This information is included in the sections dealing with those particular services and procedures, as well as the fee schedule.