



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: June 17, 2022

TIME: 4:03 PM

WSR 22-13-134

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 22-10-045 ; 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 182-554-400 Enteral nutrition – Provider requirements

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 26, 2022	10:00 AM	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Health Care Authority continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington State.	To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_0kdBEytITLCb2dmAiv3rBA If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of intended adoption: Not sooner than July 27, 2022 (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) July 26, 2022 by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: Johanna.larson@hca.wa.gov

Other:

By (date) July 8, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending these rules to add an additional section to clarify overlap in dates of service for the processing of claims for refills prior to the client exhausting their supply.

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? 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:	Valerie Freudenstein	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Erin Mayo	PO Box 55081, Olympia, WA 98504-5081	360-725-1729
Enforcement:	Erin Mayo	PO Box 55081, Olympia, WA 98504-5081	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. The proposed filing does not impose a disproportionate cost impact on small 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: June 17, 2022

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-554-400 Enteral nutrition—Provider requirements. (1)

The following providers are eligible to enroll or contract with the medicaid agency to provide orally administered and tube-delivered enteral nutrition products, equipment, and related supplies:

- (a) A pharmacy provider; or
- (b) A durable medical equipment provider.

(2) To receive payment for orally administered or tube-delivered enteral nutrition products, equipment and related supplies, a provider must:

- (a) Meet the requirements under chapters 182-501 and 182-502 WAC.
- (b) Provide only those services that are within the scope of the provider's license.
- (c) Obtain prior authorization from the agency, if required, before delivery to the client and before billing the agency.
- (d) Deliver enteral nutritional products in quantities sufficient to meet the client's authorized needs, not to exceed a one-month supply.
- (e) Confirm with the client or the client's caregiver that the next month's delivery of authorized orally administered enteral nutrition products is necessary and document the confirmation in the client's file. The agency does not pay for automatic periodic delivery of products.
- (f) Furnish clients with new or used equipment that includes full manufacturer and dealer warranties for at least one year.
- (g) Notify the client's primary care provider if the client has indicated the enteral nutrition product is not being used as prescribed and document the notification in the client's file.
- (h) Have a valid prescription. To be valid, a prescription must be:
 - (i) Written, dated and signed (including the prescriber's credentials) by the prescriber on or before the date of delivery of the product, equipment or related supplies;
 - (ii) No older than one year from the date the prescriber signed the prescription; and
 - (iii) State the specific item or service requested, the client's diagnosis and estimated length of need, quantity and units of measure, frequency and directions for use.
- (i) Have proof of delivery.
 - (i) When a client or the client's authorized representative receives the product directly from the provider, the provider must furnish the proof of delivery upon agency request. The proof of delivery must:
 - (A) Be signed and dated by the client or the client's authorized representative. The date of the signature must be the date the item was received by the client; and
 - (B) Include the client's name and a detailed description of the item(s) delivered, including the quantity and brand name.
 - (ii) When a provider uses a shipping service to deliver items, the provider must furnish proof of delivery upon agency request. The proof of delivery must include:
 - (A) The client's name or other client identifier;
 - (B) The delivery service package identification number;

(C) The delivery address; and

(D) The quantity, a detailed description, and brand name of the item being shipped.

(j) Bill the agency (~~with~~) in accordance with agency rules and billing instructions using one of the following dates of service:

(i) If the provider used a shipping service, the provider must use the shipping date as the date of service; or

(ii) If the client or the client's authorized representative received the product directly from the provider, the provider must use the date of receipt as the date of service.

(k) The agency allows up to a 10-day overlap in dates of service for the processing of claims for refills delivered/shipped prior to the client exhausting their supply.