



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: June 15, 2023

TIME: 2:05 PM

WSR 23-13-083

Agency: Health Care Authority (HCA)

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 22-17-048 ; 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):

Date:	Time:	Location: (be specific)	Comment:
July 25, 2023	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place.	To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_QiArFJa_qRvCj_rekiEBqoA 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: No sooner than July 26, 2023 (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 25, 2023, 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 14, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: HCA is amending this rule to explain how HCA updates the state-only composite rate, correct or remove outdated information, and clarify language throughout.

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

Type of proponent: <input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental Name of proponent: (person or organization) Health Care Authority			
Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Jason Crabbe	PO Box 42716, Olympia, WA 98504-2716	360-725-9563
Implementation:	Wendy Steffens	PO Box 45500, Olympia, WA 98504-5500	360-725-5145
Enforcement:	Wendy Steffens	PO Box 45500, Olympia, WA 98504-5500	360-725-5145
Is a school district fiscal impact statement required under RCW 28A.305.135?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, insert statement here: <div style="margin-left: 40px;"> The public may obtain a copy of the school district fiscal impact statement by contacting: Name: Address: Phone: Fax: TTY: Email: Other: </div>			
Is a cost-benefit analysis required under RCW 34.05.328? <input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: <div style="margin-left: 40px;"> Name: Address: Phone: Fax: TTY: Email: Other: </div> <input checked="" type="checkbox"/> 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 and Small Business Economic Impact Statement Note: The Governor's Office for Regulatory Innovation and Assistance (ORIA) provides support in completing this part.			
(1) Identification of exemptions: This rule proposal, or portions of the proposal, may be exempt from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). For additional information on exemptions, consult the exemption guide published by ORIA . Please check the box for any applicable exemption(s): <input type="checkbox"/> 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: <input type="checkbox"/> 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. <input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).
- ☐ This rule proposal, or portions of the proposal, is exempt under RCW ____.
- Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- ☐ The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- ☐ The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- ☒ The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. The revised rule does not impose more-than-minor costs 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 the required small business economic impact 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 15, 2023

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



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 resource-based relative value scale (RBRVS). The agency obtains information used to update the agency's RBRVS from the ~~((MPFS))~~ centers for medicare and medicaid services (CMS) relative value unit (RVU) file.

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

(3) The agency determines a budget-neutral conversion factor (CF) for each RBRVS update, by doing the following:

(a) First, determining the units of service and expenditures for a base period~~((Then))~~;

(b) Second, applying the latest medicare RVU obtained from the medicare physician fee schedule database (MPFSDB), as published in the ((MPFS)) CMS RVU file, and blended Washington (WA) geographic practice cost indices (GCPI) ((changes)) to obtain projected units of service for the new period~~((Then))~~;

(c) Third, multiplying the projected units of service by conversion factors to obtain estimated expenditures~~((Then))~~;

(d) Fourth, comparing expenditures obtained in (c) of this subsection with base period expenditure levels~~((Then))~~; and

(e) Fifth, 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))~~ agency determines RBRVS RVUs by:

(i) ~~((Each multiplied))~~ First, multiplying the medicare RVU by the blended statewide geographic practice cost index (GCPI)~~((Then))~~; and

(ii) Second, multiplying 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 GCPI. 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 GCPI adjusted and the RVU is multiplied by the applicable conversion factor.~~

~~((e))~~ 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))~~ based on market research or when the legislature authorizes a vendor rate increase, except for the following categories which are revised annually during the update:

(A) ~~((Immunization))~~ The agency reimburses for professional administered drug codes ~~((are reimbursed))~~ at the medicare Part B drug file price or using point-of-sale (POS) ~~((AAC))~~ pricing methodology, described in WAC 182-530-7000, 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 administrative fee for ~~((administering the immunization))~~ storage.

(B) ~~((A cast material maximum allowable fee is set using an average of wholesale or distributor prices for cast materials))~~ The agency uses established medicare contractor rates.

(iii) For information regarding the agency's reimbursement of 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))))~~, see WAC 182-543-9000.

~~((d))~~ (c) For procedure codes with no RVU or maximum allowable fee, the agency reimburses "by report." The agency reimburses for 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)~~ (d) The agency adjusts composite rates annually when the codes that make up the composite rates are updated.

(5) The ~~((technical advisory group))~~ agency reviews RBRVS changes.

(6) The agency also makes fee schedule changes when:

(a) The legislature grants a vendor rate increase ~~((and the effective date of that increase is not the same as))~~ outside of the agency's annual update;

(b) There are coverage changes due to policy updates; or

(c) CMS adds or deletes procedure codes.

(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 evaluation and management (E&M) services that are provided to children age 20 and ~~((under))~~ younger.

(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 CMS 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))~~ CURRENT PROCEDURAL TERMINOLOGY (CPT)/HEALTHCARE FINANCING ADMINISTRATION (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.