



PROPOSED RULE MAKING

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

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STATE OF WASHINGTON
FILED

DATE: August 15, 2023

TIME: 9:55 AM

WSR 23-17-080

Agency: The Health Care Authority

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 23-13-022 ; 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 182-535-1088 Dental-related services – Covered – Periodontic services.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 26, 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_E7tAxNWnSVCG-SIhvxxsWg 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: September 27, 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) September 26, 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) September 8, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending this rule to increase the allowable number of periodontal treatments to up to four per 12-month period for Apple Health eligible clients, age 21 and over, with a current diagnosis of diabetes. Effective January 1, 2024, periodontal maintenance is allowed once every three months when criteria is met. In subsection (2)(a)(i), the agency removed "subgingival calculus" as it is unnecessary language.

Reasons supporting proposal: See purpose.

Statutory authority for adoption: RCW 41.05.021, RCW 41.05.160

Statute being implemented: ESSB 5187 Conference Budget, Sec. 211 (60), RCW 41.05.021, RCW 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: None

Type of proponent: ☐ Private ☐ Public ☒ Governmental

Name of proponent: (person or organization) Health Care Authority

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Valerie Freudenstein	PO Box 42716, Olympia, WA 98504-2716	360-725-1344
Implementation:	Jayson Diaz	PO Box 55076, Olympia, WA 98504-5076	360-725-1822
Enforcement:	Jayson Diaz	PO Box 55076, Olympia, WA 98504-5076	360-725-1822

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 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):

☐ 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 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 agency is amending this rule to increase the allowable number of periodontal treatments. This change does not impose a more-than-minor cost.
- ☐ 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: August 15, 2023

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-535-1088 Dental-related services—Covered—Periodontic services. Clients described in WAC 182-535-1060 are eligible to receive the dental-related periodontic services listed in this section, subject to coverage limitations, restrictions, and client-age requirements identified for a specified service.

(1) **Surgical periodontal services.** The medicaid agency covers the following surgical periodontal services, including all postoperative care:

(a) Gingivectomy/gingivoplasty (does not include distal wedge procedures on erupting molars) only on a case-by-case basis and when prior authorized and only for clients age ~~((twenty))~~ 20 and younger; and

(b) Gingivectomy/gingivoplasty (does not include distal wedge procedures on erupting molars) for clients of the developmental disabilities administration of the department of social and health services (DSHS) according to WAC 182-535-1099.

(2) **Nonsurgical periodontal services.** The agency:

(a) Covers periodontal scaling and root planing for clients age ~~((thirteen through eighteen))~~ 13 through 18, once per quadrant per client, in a two-year period on a case-by-case basis, when prior authorized, and only when:

(i) The client has radiographic evidence of periodontal disease ~~((and subgingival calculus))~~;

(ii) The client's record includes supporting documentation for the medical necessity, including complete periodontal charting done within the past ~~((twelve))~~ 12 months from the date of the prior authorization request and a definitive diagnosis of periodontal disease;

(iii) The client's clinical condition meets current published periodontal guidelines; and

(iv) Performed at least two years from the date of completion of periodontal scaling and root planing or surgical periodontal treatment, or at least ~~((twelve))~~ 12 calendar months from the completion of periodontal maintenance.

(b) Covers periodontal scaling and root planing once per quadrant per client in a two-year period for clients age ~~((nineteen))~~ 19 and older. Criteria in (a)(i) through (iv) of this subsection must be met.

(c) Considers ultrasonic scaling, gross scaling, or gross debridement to be included in the procedure and not a substitution for periodontal scaling and root planing.

(d) Covers periodontal scaling and root planing only when the services are not performed on the same date of service as prophylaxis, periodontal maintenance, gingivectomy, or gingivoplasty.

(e) Covers periodontal scaling and root planing for clients of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(f) Covers periodontal scaling and root planing, one time per quadrant in a ~~((twelve))~~ 12-month period for clients residing in an alternate living facility or nursing facility.

(3) **Other periodontal services.** The agency:

(a) Covers periodontal maintenance for clients age ~~((thirteen through eighteen))~~ 13 through 18 once per client in a ~~((twelve))~~ 12-

month period on a case-by-case basis, when prior authorized, and only when:

- (i) The client has radiographic evidence of periodontal disease;
- (ii) The client's record includes supporting documentation for the medical necessity, including complete periodontal charting done within the past (~~((twelve))~~) 12 months with location of the gingival margin and clinical attachment loss and a definitive diagnosis of periodontal disease;

- (iii) The client's clinical condition meets current published periodontal guidelines; and

- (iv) The client has had periodontal scaling and root planing but not within (~~((twelve))~~) 12 months of the date of completion of periodontal scaling and root planing, or surgical periodontal treatment.

- (b) Covers periodontal maintenance once per client in a twelve month period for clients age (~~((nineteen))~~) 19 and older. Criteria in (a)(i) through (iv) of this subsection must be met.

- (c) Covers periodontal maintenance only if performed at least (~~((twelve))~~) 12 calendar months after receiving prophylaxis, periodontal scaling and root planing, gingivectomy, or gingivoplasty.

- (d) Covers periodontal maintenance for clients of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

- (e) Covers periodontal maintenance for clients residing in an alternate living facility or nursing facility:

- (i) Periodontal maintenance (four quadrants) substitutes for an eligible periodontal scaling or root planing once every six months.

- (ii) Periodontal maintenance allowed six months after scaling or root planing.

- (f) Covers periodontal maintenance for clients 21 and older with a diagnosis of diabetes:

- (i) Periodontal maintenance allowed once every three months. Criteria in (a)(i) through (iii) of this subsection must be met.

- (ii) Periodontal maintenance allowed three months after scaling or root planing.

- (g) Covers full-mouth scaling in the presence of generalized moderate or severe gingival inflammation and only:

- (i) For clients age (~~((nineteen))~~) 19 and older once in a (~~((twelve))~~) 12-month period after an oral evaluation; and

- (ii) For clients age (~~((thirteen through eighteen))~~) 13 through 18 once in a (~~((twelve))~~) 12-month period after an oral evaluation and when prior authorized.