



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: September 01, 2023

TIME: 9:12 AM

WSR 23-18-065

Agency: Health Care Authority

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 23-13-105 ; 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)

182-550-2590 - Agency prior authorization requirements for Level 1 and Level 2 services

182-550-3381 - Payment method for acute PM&R services and administrative day services

182-550-4550 - Administrative day rate and swing bed day rate

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 10, 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_fMyM6MV1SmqplcKuyrlgYQ 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: October 11, 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) October 10, 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 29, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is revising these rules to align with 2SSB 5103, 68th Legislature, 2023 Regular Session. This legislation requires the agency to provide a hospital payment for Apple Health clients who meet the criteria for discharge from a hospital stay to one of several types of facilities but who cannot be discharged because placement is unavailable. These revisions provide for the payment of medically necessary ancillary services to be billed by and paid to the hospital separately.

The agency's external review draft for this rulemaking included similar revisions to WAC 182-550-2600. These revisions will subsequently be made as part of the changes identified under [WSR 23-17-101](#).

Reasons supporting proposal: See Purpose above.

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: None			
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:	Melinda Froud	PO Box 42716, Olympia, WA 98504-2716	360-725-1408
Implementation:	Abby Cole	PO Box 45510, Olympia, WA 98504-5510	360-725-1835
Enforcement:	Abby Cole	PO Box 45510, Olympia, WA 98504-5510	360-725-1835
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: N/A			
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?			
<input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: Name: Address: Phone: Fax: TTY: Email: Other:			
<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 checked="" 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 proposed rules do not impose 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: September 1, 2023

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-550-2590 Agency prior authorization requirements for Level 1 and Level 2 LTAC services. (1) The medicaid agency requires prior authorization for Level 1 and Level 2 long term acute care (LTAC) inpatient stays. The prior authorization process includes all the following:

(a) For an initial ((~~thirty~~)) 30-day stay:

(i) The client must:

(A) Be eligible under one of the programs listed in WAC 182-550-2575; and

(B) Require Level 1 or Level 2 LTAC services as defined in WAC 182-550-1050.

(ii) The LTAC provider of services must:

(A) Before admitting the client to the LTAC hospital, submit a request for prior authorization to the agency by fax, electronic mail, or telephone, as published in the agency's LTAC billing instructions;

(B) Include sufficient medical information to justify the requested initial stay;

(C) Obtain prior authorization from the agency's medical director or designee, when accepting the client from the transferring hospital; and

(D) Meet all the requirements in WAC 182-550-2580.

(b) For any extension of stay, the criteria in (a) of this subsection must be met, and the LTAC provider of services must submit a request for the extension of stay to the agency with sufficient medical justification.

(2) The agency authorizes Level 1 or Level 2 LTAC services for initial stays or extensions of stay based on the client's circumstances and the medical justification received.

(3) A client who does not agree with a decision regarding a length of stay has a right to a fair hearing under chapter 182-526 WAC. After receiving a request for a fair hearing, the agency may request additional information from the client and the facility, or both. After the agency reviews the available information, the result may be:

(a) A reversal of the initial agency decision;

(b) Resolution of the client's issue(s); or

(c) A fair hearing conducted according to chapter 182-526 WAC.

(4) The agency may authorize an administrative day rate payment, as well as payment for medically necessary ancillary services as determined by the agency, pharmacy services, and pharmaceuticals, for a client who meets one or more of the following. The client:

(a) Does not meet the requirements for Level 1 or Level 2 LTAC services;

(b) Is waiting for placement in another hospital or other facility; or

(c) If appropriate, is waiting to be discharged to the client's residence.

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

WAC 182-550-3381 Payment method for acute PM&R services and administrative day services. This section describes the agency's payment method for acute physical medicine and rehabilitation (PM&R) services provided by acute PM&R hospitals.

(1) The agency pays an acute PM&R hospital for acute PM&R services based on a rehabilitation per diem rate. See chapter 182-550 WAC and WAC 182-550-3000.

(2) Acute PM&R room and board includes, but is not limited to:

- (a) Facility use;
- (b) Social services (e.g., discharge planning);
- (c) Bed and standard room furnishings; and
- (d) Dietary and nursing services.

(3) When the agency authorizes administrative day(s) for a client as described in WAC 182-550-2561(8), the agency pays the facility:

(a) The administrative day rate; ~~((and))~~

(b) For pharmaceuticals prescribed for the client's use during the administrative portion of the client's stay; and

(c) Medically necessary ancillary services as determined by the agency.

(4) The agency pays for transportation services provided to a client receiving acute PM&R services in an acute PM&R hospital according to chapter 182-546 WAC.

AMENDATORY SECTION (Amending WSR 22-13-044, filed 6/7/22, effective 10/1/22)

WAC 182-550-4550 Administrative day rate and swing bed day rate.

(1) **Administrative day rate.**

(a) The medicaid agency allows hospitals an administrative day rate for those days of hospital stay in which a client does not meet criteria for acute inpatient level of care, but is not discharged because:

(i) An appropriate placement outside the hospital is not available (no placement administrative day); or

(ii) The postpartum parent's newborn remains on an inpatient claim for monitoring post-in utero exposure to substances that may lead to physiologic dependence and continuous care by the postpartum parent is the appropriate first-line treatment (newborn administrative day). "Postpartum parent" means the client who delivered the baby(ies).

(b) The agency uses the annual statewide weighted average nursing facility medicaid payment rate to update the all-inclusive administrative day rate on November 1st of each year.

(c) The agency ~~((does not))~~ pays for ~~((ancillary services, except for))~~ pharmacy services ~~((and))~~, pharmaceuticals((7)) and medically necessary ancillary services, as determined by the agency, when these services are provided during administrative days.

(d) The agency identifies administrative days during the length of stay review process after the client's discharge from the hospital.

(e) The agency pays for up to five newborn administrative days. The agency pays for additional days with expedited prior authorization (EPA). For EPA, a hospital must establish that the clinically appropriate EPA criteria outlined in the agency's published billing guides have been met. The hospital must use the appropriate EPA number when billing the agency.

(f) The agency pays the hospital the administrative day rate starting with the date of hospital admission if the admission is solely for a no placement administrative day stay.

(g) The agency pays the hospital the newborn administrative day rate only if:

(i) The postpartum parent rooms in with their newborn and provides parental support/care; and

(ii) The hospital provides all prescribed medications to the postpartum parent for the duration of the stay, including medications prescribed to treat substance use disorder.

(2) **Swing bed day rate.** The agency allows hospitals a swing bed day rate for those days when a client is receiving agency-approved nursing service level of care in a swing bed. The agency's aging and disability services administration (ADSA) determines the swing bed day rate.

(a) The agency does not pay a hospital the rate applicable to the acute inpatient level of care for those days of a hospital stay when a client is receiving agency-approved nursing service level of care in a swing bed.

(b) The agency's allowed amount for those ancillary services not covered under the swing bed day rate is based on the payment methods provided in WAC 182-550-6000 and 182-550-7200. These ancillary services may be billed by the hospital on an outpatient hospital claim, except for pharmacy services and pharmaceuticals.

(c) The agency allows pharmacy services and pharmaceuticals not covered under the swing bed day rate, that are provided to a client receiving agency-approved nursing service level of care, to be billed directly by a pharmacy through the point of sale system. The agency does not allow those pharmacy services and pharmaceuticals to be paid to the hospital through submission of a hospital outpatient claim.