



# 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: November 27, 2023

TIME: 8:32 AM

WSR 23-24-002

Agency: Health Care Authority

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 23-17-088 ; 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) 182-531-0200, Physician-related and health care professional services requiring prior authorization; 182-531-0375, Audiology services

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 9, 2024	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place.	To attend the virtual public hearing, <a href="https://us02web.zoom.us/webinar/register/WN_Icj79gocS5G90rbyLRPI8g">you must register in advance:</a>  <a href="https://us02web.zoom.us/webinar/register/WN_Icj79gocS5G90rbyLRPI8g">https://us02web.zoom.us/webinar/register/WN_Icj79gocS5G90rbyLRPI8g</a>  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 earlier than January 10, 2024 (Note: This is **NOT** the effective date)

<b>Submit written comments to:</b> Name: HCA Rules Coordinator Address: PO Box 42716, Olympia WA 98504-2716 Email: <a href="mailto:arc@hca.wa.gov">arc@hca.wa.gov</a> Fax: 360-586-9727 Other: By (date) <u>January 9, 2024, by 11:59 PM</u>	<b>Assistance for persons with disabilities:</b> Contact Johanna Larson Phone: 360-725-1349 Fax: 360-586-9727 TTY: Telecommunication Relay Services (TRS): 711 Email: <a href="mailto:Johanna.larson@hca.wa.gov">Johanna.larson@hca.wa.gov</a> Other: By (date) <u>December 29, 2023</u>
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**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The legislature provided funding for adult cochlear implants in the 2023-2025 Omnibus Operating Budget. The agency is revising these rules to include coverage for adult cochlear implants for Apple Health (Medicaid) clients, update cochlear implant device coverage criteria, and revise the expedited prior authorization explanation.

**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:** 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:	Brian Jensen	PO Box 42716, Olympia, WA 98504-2716	360-725-0815
Implementation:	Korrina Dalke	PO Box 45506, Olympia, WA 98504-5506	360-725-2005
Enforcement:	Korrina Dalke	PO Box 45506, Olympia, WA 98504-5506	360-725-2005

**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:
  - [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 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: The proposed rules concern client medical benefit coverage and do not impose costs on businesses.

**(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. \_\_\_\_\_
- 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:

<b>Date:</b> November 27, 2023	<b>Signature:</b>  
<b>Name:</b> Wendy Barcus	
<b>Title:</b> HCA Rules Coordinator	

**WAC 182-531-0200 Physician-related and health care professional services requiring prior authorization.** (1) The medicaid agency requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE)**. See WAC 182-501-0165.

(2) ~~((The))~~ EPA ~~((process))~~ is designed to eliminate the need for ~~((telephone prior))~~ written authorization ~~((for selected admissions and procedures))~~. The agency establishes authorization criteria and identifies the criteria with specific codes, enabling providers to use that EPA number if a client meets the EPA criteria.

(a) The provider must create an authorization number using the process explained in the medicaid agency's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to the medicaid agency showing how the authorization number was created.

(c) Selected nonemergency admissions to contract hospitals require EPA. These are identified in the medicaid agency billing instructions.

(d) Procedures allowing expedited prior authorization include, but are not limited to, the following:

(i) Reduction mammoplasties/mastectomy for gynecomastia;

(ii) Strabismus surgery for clients ~~((eighteen))~~ 18 years of age and older;

(iii) Meningococcal vaccine;

(iv) Placement of drug eluting stent and device;

(v) Cochlear implant ~~((s for clients twenty years of age and younger))~~ devices;

(vi) Hyperbaric oxygen therapy;

(vii) Visual exam/refraction for clients ~~((twenty-one))~~ 21 years of age and older;

(viii) Blepharoplasties; and

(ix) Neuropsychological testing for clients ~~((sixteen))~~ 16 years of age and older.

(3) The medicaid agency evaluates new technologies under the procedures in WAC 182-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

(a) Abdominoplasty;

(b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R)**;

(c) ~~((Unilateral))~~ Cochlear implant ~~((s for clients twenty years of age and younger))~~ devices (refer to WAC 182-531-0375);

(d) Diagnosis and treatment of eating disorders for clients ~~((twenty-one))~~ 21 years of age and older;

(e) Osteopathic manipulative therapy in excess of the medicaid agency's published limits;

(f) Panniculectomy;

(g) Bariatric surgery (see WAC 182-531-1600);

(h) Vagus nerve stimulator insertion, which also:

(i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

- (i) Osseointegrated/bone anchored hearing aids (BAHA) for clients (~~(twenty)~~) 20 years of age and younger;
  - (j) Removal or repair of previously implanted BAHA or cochlear implant devices for clients (~~(twenty-one)~~) 21 years of age and older when medically necessary; and
  - (k) Gender reassignment surgery (see WAC 182-531-1675).
- (5) All hysterectomies performed for medical reasons may require prior authorization, as explained in subsection (2) of this section.
- (a) Hysterectomies may be performed without prior authorization in either of the following circumstances:
- (i) The client has been diagnosed with cancer(s) of the female reproductive organs; and/or
  - (ii) A hysterectomy is needed due to trauma.
- (b) The agency reimburses all attending providers for a hysterectomy procedure only when the provider submits an accurately completed agency-approved consent form with the claim for reimbursement.
- (6) The medicaid agency may require a second opinion and/or consultation before authorizing any elective surgical procedure.
- (7) Children six years of age and younger do not require authorization for hospitalization.

AMENDATORY SECTION (Amending WSR 15-03-042, filed 1/12/15, effective 2/12/15)

**WAC 182-531-0375 Audiology services.** (1) The agency covers (~~(7)~~) medically necessary cochlear implant devices with prior authorization (~~(7, cochlear devices for clients twenty years of age and younger with the following limitations:~~

- ~~(a) The client meets one of the following:~~
  - ~~(i) Has a diagnosis of profound to severe bilateral, sensorineural hearing loss;~~
  - ~~(ii) Has stimulable auditory nerves but has limited benefit from appropriately fitted hearing aids (e.g., fail to meet age-appropriate auditory milestones in the best-aided condition for young children, or score of less than ten or equal to forty percent correct in the best-aided condition on recorded open-set sentence recognition tests);~~
  - ~~(iii) Has the cognitive ability to use auditory clues;~~
  - ~~(iv) Is willing to undergo an extensive rehabilitation program;~~
  - ~~(v) Has an accessible cochlear lumen that is structurally suitable for cochlear implantation;~~
  - ~~(vi) Does not have lesions in the auditory nerve and/or acoustic areas of the central nervous system; or~~
  - ~~(vii) Has no other contraindications to surgery; and~~
- ~~(b) The procedure is performed in an inpatient hospital setting or outpatient hospital setting) for eligible clients.~~

(2) The agency covers BAHAs for clients (~~(twenty)~~) 20 years of age and younger with prior authorization.

(3) The agency covers replacement parts and batteries for BAHAs and cochlear implant devices (~~(for clients twenty years of age and younger only)~~). See WAC 182-547-0800 and 182-547-0850.

(4) The agency considers requests for removal or repair of previously implanted BAHAs and cochlear implant devices (~~(for clients twenty one years of age and older only)~~) when medically necessary. Prior authorization from the agency is required.

~~((5) For audiology, the agency limits:  
(a) Caloric vestibular testing to four units for each ear; and  
(b) Sinusoidal vertical axis rotational testing to three units  
for each direction.))~~