



# RULE-MAKING ORDER EMERGENCY RULE ONLY

## CR-103E (August 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: August 24, 2017

TIME: 2:47 PM

WSR 17-18-011

**Agency:** Health Care Authority, Washington Apple Health

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes  No If Yes, explain:

**Purpose:** The agency is revising the requirements a hospital must meet to perform and be paid for bariatric surgery provided to eligible Apple Health clients. To qualify, a hospital must be accredited by the Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program (MBSAQIP).

**Citation of rules affected by this order:**

New:  
Repealed:  
Amended: 182-550-2301  
Suspended:

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160

**Other authority:**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

**Reasons for this finding:** Under the current rules, one hospital in Washington State is approved to perform and be paid for bariatric surgery for Apple Health clients. The approved hospital does not serve the entire state. This creates an access to care issue for Apple Health clients located in counties which the approved hospital does not serve. This emergency rule is necessary to lessen the existing requirements to accreditation by MBSAQIP while the permanent rules are promulgated. The agency filed the CR101 for the permanent rules process under WSR 17-18-010, on August 24, 2017.

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	<u>1</u>	Repealed	___
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**The number of sections adopted using:**

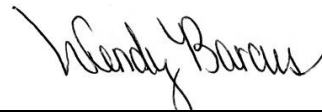
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

**Date adopted:** August 24, 2017

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**WAC 182-550-2301 Hospital and medical criteria requirements for bariatric surgery.** (1) The medicaid agency pays a hospital for bariatric surgery and bariatric surgery-related services only when the surgery is provided in an inpatient hospital setting and only when:

(a) The client:

(i) Qualifies for bariatric surgery by successfully completing all requirements under WAC 182-531-1600; and

~~((b) The client))~~ (ii) Continues to meet the criteria to qualify for bariatric surgery under WAC 182-531-1600 up to the actual surgery date

~~(c) The hospital providing the bariatric surgery and bariatric surgery related services meets the requirements in this section and other applicable WAC; and~~

~~(d))~~.

(b) The hospital:

(i) Is accredited by the metabolic and bariatric surgery accreditation and quality improvement program (MBSAQIP); and

(ii) Receives prior authorization from the agency before performing a bariatric surgery for a Washington apple health client.

(2) ~~((A hospital must meet the following requirements to be paid for bariatric surgery and bariatric surgery related services provided to an eligible Washington apple health client. The hospital must:~~

~~(a) Be approved by the agency to provide bariatric surgery and bariatric surgery related services and:~~

~~(i) For dates of admission after June 30, 2007, be located in Washington state or approved bordering cities (see WAC 182-501-0175).~~

~~(ii) For dates of admission after June 30, 2007, be located in Washington state, or be an agency designated critical border hospital.~~

~~(b) Have an established bariatric surgery program in operation under which at least one hundred bariatric surgery procedures have been performed. The program must have been in operation for at least five years and be under the direction of an experienced board certified surgeon. In addition, the agency requires the bariatric surgery program to:~~

~~(i) Have a mortality rate of two percent or less;~~

~~(ii) Have a morbidity rate of fifteen percent or less;~~

~~(iii) Document patient follow up for at least five years postsurgery;~~

~~(iv) Have an average loss of at least fifty percent of excess body weight achieved by patients at five years postsurgery; and~~

~~(v) Have a reoperation or revision rate of five percent or less.~~

~~(c) Submit documents to the agency's division of health care services that verify the performance requirements listed in this section.~~

~~(3) The agency waives the program requirements listed in subsection (2)(b) of this section if the hospital participates in a state-wide bariatric surgery quality assurance program such as the surgical Clinical Outcomes Assessment Program (COAP).~~

~~(4)) See WAC 182-531-1600(13) for requirements for surgeons who perform bariatric surgery.~~

~~((5))~~ (3) Authorization does not guarantee payment. Authorization for bariatric surgery and bariatric surgery-related services is valid only if:

- (a) The client is eligible on the date of admission and date of service; and
- (b) The hospital and professional providers meet the criteria in this section and other applicable WAC to perform bariatric surgery or to provide bariatric surgery-related services.