



**RULE-MAKING ORDER
EMERGENCY RULE ONLY**

**CR-103E (December 2017)
(Implements RCW 34.05.350
and 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 19, 2019

TIME: 10:46 AM

WSR 19-10-010

Agency: Health Care Authority

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 creating new sections and amending others within Chapter 182-547 WAC, Hearing Aids, to restore coverage of hearing instruments for adults..

Citation of rules affected by this order:

New: 182-547-0750, 182-547-0850, 182-547-0950, 182-547-1050,
 Repealed:
 Amended: 182-547-0100, 182-547-0200, 182-547-1100
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160, E2SSB 5179, 65th Legislature, 2018 Regular Session

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: This emergency is necessary to continue the current emergency filed under WSR 19-02-010, which is set to expire on April 19, 2019, while the agency completes the permanent rulemaking process. This emergency implements the requirements of E2SSB 5179, 65th Legislature, 2018 Regular Session, effective January 1, 2019. Since the last emergency filing, the agency has completed the internal review, external review, and plans to file the CR-102 Proposed Rule Making in the near future.

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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	<u>4</u>	Amended	3	Repealed	___

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

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended ____ Repealed ____

The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	<u>4</u>	Amended	3	Repealed	____

Date Adopted: April 19, 2019	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

WAC 182-547-0100 (~~(Hearing aids)~~) General (~~(For clients twenty years of age and younger)~~). Unless otherwise defined in WAC 182-547-0200, the terms within this chapter are intended to correspond with the terms in chapter 18.35 RCW.

(1) The medicaid agency covers the hearing aids listed in this chapter, according to agency rules and subject to the limitations and requirements in this chapter. See also WAC 182-531-0375 audiology services.

(2) The agency pays for hearing aids when:

(a) Covered;

(b) Within the scope of an eligible client's medical care program;

(c) Medically necessary as defined under WAC 182-500-0070;

(d) Authorized, as required within this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and provider notices;

(e) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and provider notices; and

(f) The client (~~(is twenty years of age or younger and)~~) completes a hearing evaluation, including an audiogram and/or developmentally appropriate diagnostic physiologic test results performed and/or interpreted by a hearing health care professional.

(3) The agency requires prior authorization for covered hearing aids when the clinical criteria set forth in this chapter are not met. The agency evaluates these requests on a case-by-case basis to determine whether they are medically necessary, according to the process found in WAC 182-501-0165.

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

WAC 182-547-0200 (~~(Hearing aids)~~) Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

"Bone-anchored hearing aid (BAHA)" or "bone conduction hearing device" means a type of hearing aid that transmits sound vibrations through bones in the head. The inner ear translates the vibrations the same way a normal ear translates sound waves. These devices can be surgically implanted or worn on headbands.

"Cochlear implant" means an electronic hearing device designed to produce useful hearing sensations to a person with severe to profound deafness by electrically stimulating nerves inside the inner ear. A cochlear implant has a surgically implanted receiver and electrode system in the inner ear and an external microphone, sound processor, and transmitter system. The external system may be worn entirely behind the ear or its parts may be worn in a pocket, belt pouch, or harness.

"Digital hearing aids"((~~—~~Hearing aids)) means wearable sound-amplifying devices that use a digital circuit to analyze and process sound.

"Hearing aids"((~~—~~)) means wearable sound-amplifying devices that are intended to compensate for hearing loss. Hearing aids are described by where they are worn in the ear as in-the-ear (ITE), behind-the-ear (BTE), etc. Hearing aids can also be described by how they process the amplified signal. This would include analog conventional, analog programmable, digital conventional, and digital programmable.

"Hearing health care professional"((~~—~~)) means an audiologist or hearing aid fitter/dispenser licensed under chapter 18.35 RCW, or an otorhinolaryngologist or otologist licensed under chapter 18.71 RCW.

"Maximum allowable fee"((~~—~~)) means the maximum dollar amount that the agency will pay a provider for specific services, supplies and equipment.

"Prior authorization"((~~—~~)) means a form of authorization used by the provider to obtain approval for a specific hearing aid and service(s). The approval is based on medical necessity and must be received before the service(s) are provided to clients as a precondition for payment.

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

WAC 182-547-1100 ((~~Hearing aids~~))Reimbursement—General. (1)

The medicaid agency's payment for purchased hearing aids includes all of the following:

- (a) ((~~A prefitting~~)) The audiometric evaluation;
- (b) An impression for an ear mold;
- (c) The ear mold; ((and
- ~~(c) A minimum of three post-fitting consultations.))~~
- (d) The dispensing fee;
- (e) A conformity evaluation, if done;
- (f) Three batteries; and
- (g) Up to three follow-up visits for the fitting, orientation, and checking of the hearing aid.

(2) The agency denies payment for hearing aids and/or services when claims are submitted without the prior authorization number, when required, or the appropriate diagnosis or procedure code(s).

(3) The agency does not pay for hearing aid charges paid by insurance or other payer source.

(4) To receive payment, the provider must keep documentation in the client's medical file to support the medical necessity for the specific make and model of the hearing aid ordered for the client. This documentation must include the record of the audiology testing providing evidence that the client's hearing loss meets the eligibility criteria for a hearing aid.

NEW SECTION

WAC 182-547-0750 Eligibility—Clients age twenty-one and older.

(1) Clients age twenty-one and older who are receiving services under one of the following medical assistance programs are eligible for hearing aids and related services:

- (a) A categorically needy (CN) medicaid program;
- (b) The medical care services (MCS) program; or
- (c) An alternative benefit plan (ABP) program.

(2) Clients enrolled in a medicaid agency-contracted managed care organization (MCO) must arrange for hearing aid and related services directly through the client's MCO. Additionally, clients enrolled in an agency-contracted MCO must obtain replacement parts for cochlear implants and bone-anchored hearing aids (Baha®), including batteries, through their MCO.

NEW SECTION

WAC 182-547-0850 Coverage—Clients age twenty-one and older.

(1) **Nonrefurbished, monaural hearing aids.** The medicaid agency covers one new nonrefurbished monaural hearing aid, which includes the ear mold, every five years for clients age twenty-one and older.

(a) The client must have an average decibel loss of forty-five or greater in the better ear, based on a pure-tone audiometric evaluation by a licensed audiologist or a licensed hearing aid specialist at 1000, 2000, 3000, and 4000 hertz (Hz) with effective masking as indicated.

(b) The hearing aid must meet the client's specific hearing needs and carry a manufacturer's warranty for a minimum of one year.

(2) **Binaural hearing aids.** The agency covers binaural hearing aids with prior authorization (PA).

(3) **Replacement.** The agency covers the following replacements if the need for replacement is not due to the client's carelessness, negligence, recklessness, deliberate intent, or misuse under WAC 182-501-0050:

(a) One replacement hearing aid, including the ear mold, in a five-year period when the client's hearing aid(s) is lost or broken and cannot be repaired, and the warranty is expired; and

(b) One replacement ear mold, per year, when the client's existing ear mold is damaged or no longer fits the client's ear.

(4) **Repair of hearing aids.** The agency covers two repairs, per hearing aid, per year, when the cost of the repair is less than fifty percent of the cost of a new hearing aid. To receive payment, all of the following must be met:

- (a) All warranties are expired; and
- (b) The repair is under warranty for a minimum of ninety days.

(5) **Repair or replacement of external parts of cochlear devices and bone-anchored hearing aids (BAHAs).** The agency covers the following with PA.

(a) Repair or replacement of external parts of cochlear devices. If the client has bilateral cochlear devices, both devices are eligible for repair and replacement of external parts; and

(b) Repair or replacement of external parts of BAHAs, whether implanted or worn with a headband. If the client has bilateral BAHAs, both devices are eligible for repair and replacement of external parts.

(6) **Rental of hearing aids.** The agency covers rental hearing aid(s) for up to two months while the client's own hearing aid(s) is being repaired. For rental hearing aid(s) only, the agency pays separately for an ear mold(s).

(7) **Second hearing aid.** The agency pays for a second hearing aid when the client meets the following expedited prior authorization clinical criteria or PA for a limitation extension is requested:

(a) The client tries one hearing aid for a six-month period, but the hearing aid does not adequately meet the client's hearing need; and

(b) One of the following reasons is documented in the client's record:

(i) Inability to hear has caused difficulty with job performance;

(ii) Inability to hear has caused difficulty in functioning in the school environment; or

(iii) Client is legally blind.

NEW SECTION

WAC 182-547-0950 Noncovered services—Clients age twenty-one and older. (1) The medicaid agency does not cover the following items for clients age twenty-one and older:

(a) Batteries;

(b) Tinnitus maskers;

(c) Frequency modulation (FM) systems, including the computer-aided hearing devices for FM systems; and

(d) Nonprescription hearing aids or similar devices including, but not limited to:

(i) Personal sound amplification products (PSAPs);

(ii) Hearables; and

(iii) Pocket talkers or similar devices.

(2) The agency evaluates requests for noncovered hearing aids and related services according to WAC 182-501-0160.

NEW SECTION

WAC 182-547-1050 Prior authorization—Clients age twenty-one and older. (1) For covered services that require prior authorization (PA), the provider must properly request authorization in accordance with the medicaid agency's rules and billing instructions.

(2) The agency evaluates requests for covered services that are subject to limitations or other restrictions and considers such services beyond those limitations or restrictions as described in WAC 182-501-0169.

(3) When the agency authorizes hearing aids or hearing aid-related services, the PA indicates only that the specific service is medi-

cally necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

(4) To receive payment, providers must order and dispense hearing aids and hearing aid-related services within the authorized time frame.