



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (August 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: November 22, 2017

TIME: 11:59 AM

WSR 17-23-201

**Agency:** Health Care Authority

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**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 these rules to: (1) to allow for support staff to confirm receipt of filed documents, rather than a judge in WAC 182-526-0070; (2) add language to WAC 182-526-0155 that was inadvertently omitted in a previous version; and (3) clarify where the hearing may take place in WAC 182-526-0200(3).

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

New:

Repealed:

Amended: 182-526-0070, 182-526-0155, 182-526-0200

Suspended:

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160, Chapter 34.05 RCW, RCW 74.09.741

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 17-19-107 on September 20, 2017 (date).

Describe any changes other than editing from proposed to adopted version:

Proposed/Adopted	WAC Subsection	Reason
<b>Original WAC 182-526-0070 Filing of documents</b>		
Proposed	(3) Filing is complete when the documents are received by OAH or BOA during office hours, 8:00 a.m. to 5:00 p.m. If the documents are received after normal office hours, the filing is effective the next business day.	The agency is revising this section to clarify when it considers documents as filed.
Adopted	(3) Filing is complete when the documents are received by OAH or BOA during <del>office hours</del> , <u>business days between</u> 8:00 a.m. to 5:00 p.m. If the documents are received <u>after 5:00</u>	

	<u>p.m. on a business day</u> , the filing is effective the next business day.	
<b>Original WAC 182-526-0200 Enrollee appeals of a managed care organization action</b>		
Proposed	(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may request a hearing <u>at the place and address on the notice</u> . The enrollee <u>must request the hearing</u> within ninety calendar days of the date of receipt of the MCO's notice of resolution of the MCO's appeal process.	The agency is revising language regarding the hearing request based on stakeholder comments to clarify this section. We changed the 90-day deadline to 120 days to align with the federal managed care regulations.
Adopted	(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may request a hearing <u>orally or in writing to the contact information on the written notice</u> . The enrollee <u>must request the hearing</u> within <del>ninety</del> <u>one hundred twenty</u> calendar days of the date of receipt of the MCO's notice of resolution of the MCO's appeal process.	
<p style="text-align: center;">t</p> <p>If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:</p> <p>Name:  Address:  Phone:  Fax:  TTY:  Email:  Web site:  Other:</p>		

**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 in 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>3</u>	Repealed	___
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**The number of sections adopted using:**

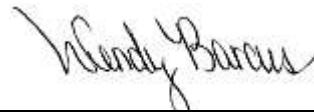
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>3</u>	Repealed	___

**Date adopted:** November 22, 2017

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)

**WAC 182-526-0070 Filing documents.** (1) Filing is the act of delivering documents to the office of administrative hearings (OAH) or the board of appeals (BOA).

(2) The date of filing is the date documents are received by OAH or BOA.

(3) Filing is complete when the documents are received by OAH or BOA during (~~office hours,~~) business days between 8:00 a.m. to 5:00 p.m. If the documents are received after (~~normal office hours~~) 5:00 p.m. on a business day, the filing is effective the next business day.

(4) A party may file documents by delivering them to OAH or BOA by:

- (a) Personal service (e.g., hand delivery);
- (b) First class, registered, or certified mail;
- (c) Fax transmission;
- (d) Commercial delivery service; or
- (e) Legal messenger service.

(5) A party may deliver documents for filing by email only if OAH or BOA staff agreed to accept electronically filed documents. A party must obtain confirmation of receipt of the filing from the (~~ALJ~~) OAH or (~~review judge~~) BOA staff to prove that the documents were successfully filed.

AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)

**WAC 182-526-0155 Appellant's representation in the hearing.** (1)

An appellant may act as his or her own representative or may choose to have someone represent him or her including, but not limited to, a friend, relative, community advocate, attorney or paralegal.

(2) All parties, including the health care authority (HCA) and their representatives, must provide their name, address, and telephone number to the office of administrative hearings (OAH) and all other parties prior to the hearing.

(3) The administrative law judge (ALJ) may require an appellant's representative to file a written notice of appearance, limited notice of appearance, or other documentation authorizing the representative to appear on behalf of the appellant.

(4) In cases involving confidential information, the representative must file a legally sufficient signed written consent or release of information document with HCA or HCA's authorized agent.

(5) If an appellant is represented by an attorney admitted to practice law in Washington state, the attorney must file a notice of appearance or limited notice of appearance and a notice of withdrawal if the attorney stops representing the party before the hearing process ends.

~~((+5))~~ (6) The following restrictions apply to an appellant's representative:

(a) HCA and HCA's authorized agents do not pay for an appellant's representation.

(b) OAH does not pay for an appellant's representation.

(c) The following ~~((persons))~~ people may not act as an appellant's representative in a hearing under this chapter:

(i) An employee of HCA;

(ii) HCA's authorized agent;

(iii) An employee of the department of social and health services (DSHS);

(iv) An employee of OAH; or

(v) Anyone under eighteen years of age.

AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)

**WAC 182-526-0200 Enrollee appeals of a managed care organization action.** (1) The hearing process described in this chapter applies to enrollee appeals of a health care authority (HCA)-contracted managed care organization (MCO) action. Where a conflict exists, the requirements in this section prevail.

(2) An MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to requesting a hearing with HCA. See WAC 182-538-110.

(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may request a hearing orally or in writing to the contact information on the written notice. The enrollee must request the hearing within ~~((ninety))~~ one hundred twenty

calendar days of the date of receipt of the MCO's notice of resolution of the MCO's appeal process.

(a) An enrollee may request continuation of services pending the outcome of a hearing related to the termination, suspension, or reduction of a previously authorized service.

(b) To receive continuation of services pending the outcome of the hearing, the enrollee must request a hearing and request to continue services within ten days of the date of the MCO's notice of the resolution of the appeal. See WAC 182-538-110 for additional requirements related to continuation of services.

(4) The entire appeal and hearing process, including the MCO appeal process, must be completed within ninety calendar days of the date the MCO enrollee filed the appeal with the MCO, not including the number of days the enrollee took to subsequently file for a hearing.

(5) Expedited hearing process.

(a) The office of administrative hearings (OAH) must establish and maintain an expedited hearing process when the enrollee or the enrollee's representative requests an expedited hearing and OAH determines that the time taken for a standard resolution of the claim could seriously jeopardize the enrollee's life or health and ability to attain, maintain, or regain maximum function.

(b) When approving an expedited hearing, OAH must issue a hearing decision as expeditiously as the enrollee's health condition requires, but not later than three business days after receiving the case file and information from the MCO regarding the action and MCO appeal.

(c) When denying an expedited hearing, OAH must give prompt oral notice to the enrollee followed by written notice within two calendar days of the request and change the hearing to the standard time frame.

(6) Parties to the hearing include HCA, the MCO, the enrollee and the enrollee's representative or the representative of a deceased enrollee's estate.

(7) Any party that disagrees with the initial order may request a review by an HCA review judge in accordance with WAC 182-526-0560 through 182-526-0600.

(8) If an enrollee disagrees with the initial order, the enrollee may request review in accordance with subsection (7) of this section, or an independent review (IR) by an independent review organization (IRO) in accordance with RCW 48.43.535. The enrollee must request the IR within twenty-one calendar days of the date of mailing the initial order. A timely submitted request for an IR stays any review requested pursuant to subsection (7) of this section.

(9) Any party that disagrees with the IR decision may request a review by an HCA review judge in accordance with WAC 182-526-0560 through 182-526-0600 within twenty-one calendar days of the date of mailing of the IR decision.

(10) When an initial order or an IR decision is appealed to an HCA review judge, the review judge issues the final order.