RULE-MAKING ORDER
PERMANENT RULE ONLY

CR-103P (December 2017)
(Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 30, 2019
TIME: 8:41 AM

WSR 19-18-049

Agency: Health Care Authority

Effective date of rule:

Permanent Rules

☐ 31 days after filing.

☒ Other (specify) October 1, 2019 **(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 adding coverage limits for mandibular advancement devices.

Citation of rules affected by this order:

New: 182-552-0450
Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-11-068 on May 16, 2019 (date).

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

Proposed/Adopted	WAC Subsection	Reason
Original WAC # 182-552-0450(2)(a)		
Proposed	"(2) For clients: (a) Age twenty and younger, if this device is recommended during the early and periodic screening, diagnosis, and treatment (EPSDT) exam and then ordered by a provider, the agency evaluates the health care service according to WAC 182-534-0100. (b) Age twenty-one and older who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: … … (iii) Either meet the sleep testing criteria described in WAC 182-552-0400 or score above thirty on the apnea-hypopnea index (AHI) or respiratory disturbance index (RDI)."	The agency struck subsection (2)(a) to remove the requirement that a formal screening under early and periodic screening, diagnosis, and treatment (EPSDT) exam is needed to trigger an evaluation of whether a mandibular advancement device (MAD) is covered under EPSDT. EPSDT coverage criteria is now outlined in subsection (2)(b) of the adopted rule.
Adopted	"(2) For clients: (a) Who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: … … (iii) Meet the sleep testing criteria described in WAC 182-552-0400. (b) For clients age twenty or younger, the agency evaluates requests for a mandibular advancement device according to the early periodic screening, diagnosis, and treatment (EPSDT) criteria found in WAC 182-534-0100. Under EPSDT,	

	the agency will pay for a service if it is medically necessary, safe, effective, and not experimental."	
Original WAC # 182-552-0450(2)(b)(iii)		
Proposed	"(2) For clients: (b) Age twenty-one and older who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: … … (iii) Either meet the sleep testing criteria described in WAC 182-552-0400 or score above thirty on the apnea-hypopnea index (AHI) or respiratory disturbance index (RDI)."	The agency revised subsection (2)(b)(iii) of the proposed rule because the proposed language created a separate standard for coverage of continuous positive airway pressure (CPAP) than the standard listed in WAC 182-552-0400. The change reflected in the adopted rule corrects this issue.
Adopted	"(2) For clients: (a) Who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: … … (iii) Meet the sleep testing criteria described in WAC 182-552-0400."	
Original WAC # 182-552-0450(3)		
Proposed	"(3) The provider must keep the following in the client's record:"	The agency revised subsection (3) of the proposed rule to clarify who is responsible for keeping the listed documentation in the client's record.
Adopted	"(3) The prescriber must keep the following in the client's record:"	
Original WAC # 182-552-0450(5)(c)		
Proposed	"(c) Has completed agency-recognized continuing education in dental sleep medicine provided by the ABDSM or a comparable organization within two years prior to ordering the mandibular advancement device."	The agency revised subsection (5)(c) of the proposed rule to correct terminology.
Adopted	"(c) Has completed agency-recognized continuing education in dental sleep medicine provided by the ABDSM or a comparable organization within two years prior to providing the mandibular advancement device."	
Original WAC # 182-552-0450		
Proposed	N/A	The agency added subsection (6) to the rule to outline the agency's process for evaluating authorization requests that exceed the limitations in this section.
Adopted	"(6) The agency evaluates requests for authorization for mandibular advancement devices that exceed the limitations in this section on a case-by-case basis in accordance with WAC 182-501-0169."	

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Web site:
Other:

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	____

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	1	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	1	Amended	____	Repealed	____

Date Adopted: August 30, 2019	**Signature:** 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

NEW SECTION

WAC 182-552-0450 Mandibular advancement device. The agency covers the purchase of a mandibular advancement device for a client when the provider determines that the use of a continuous positive airway pressure (CPAP) device is medically contraindicated or the client cannot medically tolerate a CPAP device. Prior authorization is required for all eligible clients.

(1) The agency considers a mandibular advancement device to be medical equipment subject to the same billing requirements, restrictions, and limitations as other medical equipment according to chapter 182-543 WAC.

(2) For clients:

(a) Who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must:

(i) Complete a face-to-face evaluation with a sleep medicine physician in an agency-designated center of excellence (COE) prior to sleep testing;

(ii) Be diagnosed with obstructive sleep apnea (OSA) using a clinical evaluation and positive attended polysomnogram (PSG); and

(iii) Meet the sleep testing criteria described in WAC 182-552-0400.

(b) For clients age twenty or younger, the agency evaluates requests for a mandibular advancement device according to the early periodic screening, diagnosis, and treatment (EPSDT) criteria found in WAC 182-534-0100. Under EPSDT, the agency will pay for a service if it is medically necessary, safe, effective, and not experimental.

(3) The prescriber must keep the following in the client's record:

(a) Documentation of a CPAP trial lasting at least six consecutive months; and

(b) A description of why CPAP failed or an explanation of why CPAP is not the appropriate treatment.

(4) The mandibular advancement device must be titrated by a licensed provider who has documented experience in titrating these devices.

(5) The mandibular advancement device must be provided and billed by a licensed dentist who:

(a) Holds a certification in dental sleep medicine from the American Board of Dental Sleep Medicine (ABDSM); or

(b) Is the dental director of a dental sleep medicine facility accredited by the ABDSM; or

(c) Has completed agency-recognized continuing education in dental sleep medicine provided by the ABDSM or a comparable organization within the two years prior to providing the mandibular advancement device.

(6) The agency evaluates requests for authorization for mandibular advancement devices that exceed the limitations in this section on a case-by-case basis in accordance with WAC 182-501-0169.