



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 24, 2018

TIME: 3:29 PM

WSR 18-18-021

Agency: Health Care Authority

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 18-04-066 ; 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)
WAC 182-550-6300 Outpatient nutritional counseling; New Chapter 182-555 WAC Medical Nutrition Therapy

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 9, 2018	10:00 AM	Health Care Authority Cherry Street Plaza Sue Crystal Conf. Room 106A 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than October 10, 2018 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator
 Address: PO Box 42716, Olympia WA 98504-2716
 Email: arc@hca.wa.gov
 Fax: (360) 586-9727
 Other:
 By (date) October 9, 2018

Assistance for persons with disabilities:

Contact Amber Lougheed
 Phone: (360) 725-1349
 Fax: (360) 586-9727
 TTY: Telecommunication Relay Services (TRS): 711
 Email: amber.lougheed@hca.wa.gov
 Other:
 By (date) October 5, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency removed the outdated language in WAC 182-550-6300. The agency has created a new Chapter 182-555 WAC to establish updated definitions, eligibility requirements, provider requirements, covered services, and documentation requirements for Medical Nutrition Therapy provided by a registered dietitian (RD) for clients age twenty and younger.

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: N/A

Name of proponent: (person or organization) Health Care Authority Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Vance Taylor	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Jean Gowen	PO Box 42716, Olympia WA 98504-2716	360-725-2005
Enforcement:	Jean Gowen	PO Box 42716, Olympia WA 98504-2716	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 Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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 ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated. The proposed rules do not disproportionately impact small businesses.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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:

Date: August 24, 2018

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-550-6300 Outpatient nutritional counseling. (~~((1) The~~ medicaid agency will cover nutritional counseling services only for eligible medicaid clients age twenty and under referred during an early and periodic screening, diagnosis and treatment screening to a certified dietitian.

~~(2) Except for children under the children's medical program, the agency will not cover nutritional counseling for clients under the medically indigent and other state-only funded programs.~~

~~(3) The agency will pay for nutritional counseling for the following conditions:~~

~~(a) Inadequate or excessive growth, such as failure to thrive, undesired weight loss, underweight, major change in weight to height percentile, and obesity;~~

~~(b) Inadequate dietary intake, such as formula intolerance, food allergy, limited variety of foods, limited food resources, and poor appetite;~~

~~(c) Infant feeding problems, such as poor suck/swallow reflex, breast feeding difficulties, lack of developmental feeding progress, inappropriate kinds or amounts of feeding offered, and limited caregiver knowledge or skills;~~

~~(d) Chronic disease requiring nutritional intervention, such as congenital heart disease, pulmonary disease, renal disease, cystic fibrosis, metabolic disorder, and gastrointestinal disease;~~

~~(e) Medical conditions requiring nutritional intervention, such as iron deficiency anemia, familial hyperlipidemia, and pregnancy;~~

~~(f) Developmental disability, such as increasing the risk of altered energy and nutrient needs, oral motor or behavioral feeding difficulties, medication nutrient interaction, and tube feedings; or~~

~~(g) Psycho-social factors, such as behavior suggesting eating disorders.~~

~~(4) The agency will pay for maximum of twenty sessions, in any combination, of assessment/evaluation and/or nutritional counseling in a calendar year.~~

~~(5) The agency will require each assessment/evaluation or nutritional counseling session be for a period of twenty five to thirty minutes of direct interaction with a client and/or the client's caregiver.~~

~~(6) The agency will pay the provider for a maximum of two sessions per day per client.)) See chapter 182-555 WAC for medical nutrition therapy.~~

**Chapter 182-555 WAC
MEDICAL NUTRITION THERAPY**

NEW SECTION

WAC 182-555-0100 General. The medical nutrition therapy program ensures that clients have access to medically necessary outpatient medical nutrition therapy and associated follow-ups.

NEW SECTION

WAC 182-555-0200 Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter:

"Enteral nutrition" - See WAC 182-554-200.

"Medical nutrition therapy" - Means an interaction between the registered dietitian (RD) and the client or client's guardian for the purpose of evaluating and making recommendations regarding the client's nutritional status.

"Nutrition assessment" - Means the collection and documentation of information such as food or nutrition-related history; biochemical data, medical tests and procedures; anthropometric measurements, nutrition-focused physical findings and client history.

"Nutrition care process" - Means a systematic approach to providing high-quality nutrition care. Provides a framework for the registered dietitian to individualize care, taking into account the client's needs and values and evidence available to make decisions.

"Nutrition-related diagnosis" - Means a diagnosis within the scope of practice for an RD to diagnose and treat as defined by the Academy of Nutrition and Dietetics.

"Registered dietitian" - Means a dietitian who is registered with the Academy of Nutrition and Dietetics and who is certified by the Washington state department of health (DOH).

NEW SECTION

WAC 182-555-0300 Eligibility. The medicaid agency covers medical nutrition therapy for clients who are:

- (1) Age twenty and younger; and
- (2) Referred to a registered dietitian for medical nutrition therapy by a physician, physician assistant (PA), or an advanced registered nurse practitioner (ARNP).

NEW SECTION

WAC 182-555-0400 Provider requirements. Medical nutrition therapy services must be delivered by a registered dietitian (RD) who:

- (1) Has a current core provider agreement with the medicaid agency; and
- (2) Has a national provider identifier (NPI).

NEW SECTION

WAC 182-555-0500 Covered services. (1) The medicaid agency covers medically necessary medical nutrition therapy when related to a nutrition-related diagnosis for eligible clients, as described under WAC 182-555-0300.

(2) The agency covers medical nutrition therapy, nutrition assessment, and counseling for conditions that are within the scope of practice for a registered dietitian (RD) to evaluate and treat.

NEW SECTION

WAC 182-555-0600 Documentation requirements. In addition to the health care record requirements found in WAC 182-502-0020, the medical nutrition therapy provider must maintain the following documentation in the client's file:

- (1) Referral from the provider, as described under WAC 182-555-0300;
- (2) The medical nutrition therapy provider assessment following the nutrition care process:
 - (a) Nutrition assessment;
 - (b) Nutrition diagnosis, including the problem, etiology, signs, and symptoms (PES) statement;
 - (c) Nutrition intervention;
 - (d) Nutrition monitoring and evaluation.
- (3) Any correspondence with the referring provider;
- (4) Information on associated medical conditions; and
- (5) Information concerning the medical need.