## Proposed Rule Making

**CR-102 (December 2017)**  
(Implements RCW 34.05.320)  
Do NOT use for expedited rule making

### Code Reviser Use Only

**OFFICE OF THE CODE REVISER**  
**STATE OF WASHINGTON**  
**FILED**

**DATE:** July 19, 2022  
**TIME:** 11:26 AM  
**WSR 22-15-097**

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**Agency:** Health Care Authority

- ☒ Original Notice
- ☐ Supplemental Notice to WSR ______
- ☐ Continuance of WSR ______

- ☒ Preproposal Statement of Inquiry was filed as WSR 21-11-027; 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) 182-502-0110, Conditions of payment and prior authorization requirements—Medicare coinsurance, copayments, and deductibles; 182-500-0065, Definitions—L

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**Hearing location(s):**

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location (be specific)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 23, 2022</td>
<td>10:00 AM</td>
<td>Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington State.</td>
<td>To attend the virtual public hearing, you must register in advance: <a href="https://us02web.zoom.us/webinar/register/WN_RT4WVYrRRrOZ6iCJOhN7YQ">https://us02web.zoom.us/webinar/register/WN_RT4WVYrRRrOZ6iCJOhN7YQ</a>. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.</td>
</tr>
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**Date of intended adoption:** Not sooner than August 24, 2022  
(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) August 23, 2022

**Assistance for persons with disabilities:**

- Contact Johanna Larson  
- Phone: (360) 725-1349  
- Fax: (360) 586-9727  
- TTY: Telecommunication Relay Services (TRS): 711  
- Email: johanna.larson@hca.wa.gov  
- Other:  
- By (date) August 12, 2022
Purpose of the proposal and its anticipated effects, including any changes in existing rules: HCA is amending 182-502-0110 to add that for long-term civil commitments, if Medicare and Medicaid cover the service, HCA pays the greater of Medicare or Medicaid’s allowed amount, minus what Medicare paid. Due to the amendment in WAC 182-502-0110, HCA is amending WAC 182-500-0065 to add a definition for long-term civil commitments.

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

<table>
<thead>
<tr>
<th>Is rule necessary because of a:</th>
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<tbody>
<tr>
<td>Federal Law?</td>
</tr>
<tr>
<td>Federal Court Decision?</td>
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<tr>
<td>State Court Decision?</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Name of agency personnel responsible for:</th>
<th></th>
</tr>
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<tbody>
<tr>
<td>Name</td>
<td>Office Location</td>
</tr>
<tr>
<td>Drafting:</td>
<td>Jason Crabbe</td>
</tr>
<tr>
<td>Implementation:</td>
<td>Abby Frazier-Cole</td>
</tr>
<tr>
<td>Enforcement:</td>
<td>Abby Frazier-Cole</td>
</tr>
</tbody>
</table>

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  ☒ No

If yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  

The public may obtain a copy of the school district fiscal impact statement by contacting:
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:

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**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 rule does not impose more-than-minor costs on 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:

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**Date:** July 19, 2022  
**Name:** Wendy Barcus  
**Title:** HCA Rules Coordinator  
**Signature:**

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WAC 182-502-0110 Conditions of payment and prior authorization requirements—Medicare coinsurance, copayments, and deductibles.

(1) The following people are eligible for benefits under this section:
   (a) Dual-eligible clients enrolled in categorically needy Washington apple health programs;
   (b) Dual-eligible clients enrolled in medically needy Washington apple health programs; or
   (c) Clients enrolled in the qualified medicare beneficiary (QMB) program.

(2) The agency pays the medicare coinsurance, copayments, and deductibles for Part A, Part B, and medicare advantage Part C for an eligible person under subsection (1) of this section:
   (a) Up to the published or calculated medicaid-only rate; and
   (b) If the provider accepts assignment for medicare payment.

(3) If a medicare Part A recipient has remaining lifetime reserve days, the agency pays the deductible and coinsurance amounts up to the allowed amount as calculated by the agency.

(4) If a medicare Part A recipient has exhausted lifetime reserve days during an inpatient hospital stay, the agency pays the deductible and coinsurance amounts up to the agency-calculated allowed amount minus any payment made by medicare, and any payment made by the agency, up to the outlier threshold. Once the outlier threshold is reached, the agency pays according to WAC 182-550-3700.

(5) If medicare and medicaid cover the service, the agency pays:
   (a) The deductible and coinsurance up to medicare or medicaid's allowed amount, whichever is less; or
   (b) For long-term civil commitments, as defined in WAC 182-500-0065, the greater of medicare or medicaid's allowed amount, minus what medicare paid.

(6) If only medicare covers the service, the agency pays the deductible and coinsurance up to the agency's allowed amount established for a QMB client, and at zero for a non-QMB client.

(7) If a client exhausts medicare benefits, the agency pays for medicaid-covered services under Title 182 WAC and the agency's billing instructions.

(8) When medicaid requires prior authorization for a service covered by both medicare and medicaid:
   (a) Medicaid does not require prior authorization when the client's medicare benefit is not exhausted.
   (b) Medicaid does require prior authorization when the client's medicare benefit is exhausted. See also WAC 182-501-0050(5).

(9) Providers must meet the timely billing requirements under WAC 182-502-0150 in order to be paid for services.

(10) Payment for services is subject to postpayment review.
WAC 182-500-0065 Definitions—L. "Limitation extension" see WAC 182-501-0169.
"Limited casualty program (LCP)" means the medically needy (MN) program.
"Long-term civil commitment" means inpatient mental health treatment for clients on 90-day or 180-day court orders whose treatment is authorized by the agency in agency-contracted beds.