



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Health Care Authority, Washington Apple Health

- | | |
|---|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 15-02-038; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information:

Chapter 182-554 WAC Enteral Nutrition Program

Hearing location(s):

Health Care Authority
Cherry Street Plaza Building; Sue Crystal Conf Rm 106A
626 - 8th Avenue, Olympia WA 98504

Metered public parking is available street side around building. A map is available at:
http://www.hca.wa.gov/documents/directions_to_csp.pdf
or directions can be obtained by calling: 360-725-1000

Date: **January 5, 2016** Time: **10:00 a.m.**

Date of intended adoption: Not sooner than January 6, 2016
(Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator
Address: PO Box 45504, Olympia WA, 98504-5504
Delivery: 626 – 8th Avenue, Olympia WA 98504
e-mail arc@hca.wa.gov
fax (360) 586-9727

by **January 5, 2016**

Assistance for persons with disabilities:

Contact Amber Lougheed by December 28, 2015
e-mail: amber.lougheed@hca.wa.gov or (360) 725-1349

TTY (800) 848-5429 or 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed amendment to WAC 182-554-500: adds authorization requirements for the prescription of thickeners; adds periodic evaluation requirements by client age; transfers documentation responsibilities from WIC to the provider under proposed (3)(b); and transfers prior authorization instructions from 182-554-500 to 182-554-700. The proposed amendment to WAC 182-554-400 adds valid prescription and proof of delivery requirements.

All of the sections in this chapter have been amended to update outdated references to Title 388 WAC, MAA, etc., and have been simplified for easier reading.

Reasons supporting proposal: Adding authorization requirements to WAC 182-554-500 is necessary to protect clients under one years of age who are receiving thickeners. The FDA has issued a warning not to give babies thickeners, particularly those born prematurely, because there is substantive evidence it puts them at risk of necrotizing enterocolitis. The recommendation is supported by American Academy of Pediatrics.

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? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

DATE
November 20, 2015

NAME
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

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

**DATE: November 20, 2015
TIME: 3:47 PM
WSR 15-24-035**

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: Health Care Authority

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Chantelle Diaz	PO Box 2716, Olympia, WA 98504-2716	(360) 725-1842
Implementation....Jean Gowen	PO Box 5506, Olympia, WA 98504-5506	(360) 725-2005
Enforcement.....Jean Gowen	PO Box 5506, Olympia, WA 98504-5506	(360) 725-2005

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The Joint Administrative Review Committee has not requested the filing of a small business economic impact statement, and these rules do not impose a disproportionate cost impact on small businesses.

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 () _____

e-mail _____

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.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-100 Enteral nutrition—General. (1) The ~~((department))~~ agency covers the enteral nutrition products, equipment, and related supplies listed in this chapter, according to ~~((department))~~ medicaid agency rules and subject to the limitations and requirements in this chapter.

(2) The ~~((department))~~ agency pays for covered enteral nutrition products, equipment and related supplies ~~((when))~~ if they are:

(a) ~~((Covered;~~

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

~~((c)))~~ (b) Medically necessary ~~((as—defined))~~ under WAC ~~((388-500-0005))~~ 182-500-0070; and

~~((d)))~~ (c) Authorized and billed, as required within this chapter, chapters ~~((388-501 and 388-502))~~ 182-501 and 182-502 WAC, and the ~~((department's))~~ agency's published billing instructions ~~((and numbered memoranda; and~~

~~(e) Billed according to this chapter, chapters 388-501 and 388-502, and the department's published billing instructions and numbered memoranda)).~~

(3) The ~~((department))~~ agency requires prior authorization (PA) for covered enteral nutrition products, equipment and related supplies when the clinical criteria ~~((set forth))~~ described in this chapter are not met, including the criteria associated with the expedited prior authorization process. The ~~((department))~~ agency evaluates requests requiring ~~((prior authorization))~~ PA on a case-by-case basis to determine whether they are medically necessary ~~((, according to the process found in WAC 388-501-0165))~~ under WAC 182-501-0165.

(4) The ~~((department))~~ agency evaluates a request for a covered service that is ~~((in a covered category, but has been determined to be))~~ experimental or investigational ~~((per WAC 388-531-0550, under the provisions of WAC 388-501-0165))~~ under WAC 182-531-0550 and 182-501-0165.

(5) The ~~((department))~~ agency may terminate~~((s))~~ a provider's ~~((participation with the department according to chapter 388-502 WAC))~~ core provider agreement under chapter 182-502 WAC.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-200 Enteral nutrition—Definitions. The following terms and definitions and those found in chapter 182-500 WAC ~~((388-500-0005))~~ apply to this chapter:

"BMI" see "body mass index."

"Body mass index (BMI)" - Means a number that shows body weight relative to height, and is calculated using inches and pounds or meters and kilograms.

~~((("Department" — The department of social and health services (DSHS).))~~ "Dietitian" - Means a dietitian who is registered with the

American Academy of Dietitians and who is certified by the Washington state department of health (DOH).

"Enteral nutrition" - Means the use of medically necessary nutritional products alone, or in combination with traditional food, when a client is unable to consume enough traditional food to meet nutritional requirements. ~~Enteral ((nutritional solutions can be given))~~ nutrition may be provided orally or via feeding tube((s)).

"Enteral nutrition equipment" - Means durable medical feeding pumps and intravenous (IV) poles used in conjunction with nutrition supplies to dispense formula to a client.

"Enteral nutrition product" - ~~((Enteral nutrition formulas and/or products))~~ Means formulas or solutions that help a person meet nutritional requirements.

"Enteral nutrition supplies" - Means the supplies, such as nasogastric, gastrostomy and jejunostomy tubes, necessary to allow nutritional support via the alimentary canal or any route connected to the gastrointestinal system.

"Growth chart" - Means a series of percentile curves that illustrate the distribution of select body measurements (i.e., length, height, weight, and age) in children published by the World Health Organization (WHO), and Centers for Disease Control and Prevention (CDC), National Center for Health Statistics~~((CDC growth charts: United States. <http://www.cdc.gov/growthcharts/>~~

"Nonfunctioning digestive tract" - ~~Caused by a condition that affects the body's alimentary organs and their ability to break down, digest, and absorb nutrients).~~

"Orally administered enteral nutrition products" - ~~((Enteral nutrition))~~ Means formulas or solutions ~~((and products))~~ that a ~~((client))~~ person consumes orally for nutritional support.

"Tube-~~((delivery))~~ delivered enteral nutrition products" - ~~((The provision of))~~ Means the nutritional ~~((requirements))~~ support that a person receives through a tube into ~~((the))~~ a person's stomach or small intestine.

"Women, infants, and children (WIC) program" (Also known as WIC program) - ~~((A special supplemental nutrition program managed by the department of health (DOH) that serves to safeguard the health of children up to age five and low income pregnant and breastfeeding women who are at nutritional risk, by providing them with healthy, nutritious foods to supplement diets, information on healthy eating, and referral to health care.))~~ See WAC 246-790-001.

AMENDATORY SECTION (Amending WSR 14-07-042, filed 3/12/14, effective 4/12/14)

WAC 182-554-300 Enteral nutrition—Client eligibility. (1) To receive oral or tube-delivered enteral nutrition products, equipment, and related supplies, a person must be eligible for one of the Washington apple health programs ~~((listed in the table in))~~ under WAC 182-501-0060 or be eligible for the alien emergency medical (AEM) program ~~((see))~~ under WAC 182-507-0110~~((+))~~.

(2) For persons who reside in a nursing facility, adult family home, assisted living facility, boarding home, or any other residence where the provision of food is included in the daily rate, oral enter-

al nutrition products are the responsibility of the facility (~~to provide in accordance with~~) under chapters 388-76, 388-97 and 388-78A WAC.

(3) For persons who reside in a state-owned facility (i.e., state school, developmental disabilities (~~(+DD+)~~) facility, mental health facility, Western State Hospital, and Eastern State Hospital) enteral nutrition products, equipment, and related supplies are the responsibility of the state-owned facility to provide.

(4) (~~(Persons who have elected and are eligible)~~) A person who has elected to receive the (~~(department's)~~) agency's hospice benefit must arrange for enteral nutrition products, equipment and related supplies directly through the hospice benefit.

(5) (~~(Children who qualify)~~) A child who qualifies for supplemental nutrition from the women, infants, and children (WIC) program must receive supplemental nutrition directly from that program (~~(unless the person meets the limited circumstances in WAC 182-554-500 (1)(d))~~). The child may be eligible to receive enteral products from the agency if:

- (a) The child's need for a product exceeds WIC's allowed amount;
- or
- (b) The product is not available through the WIC program.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-400 Enteral nutrition—Provider requirements. (1)

The following providers are eligible to enroll(~~(+)~~) or contract with the (~~(department)~~) medicaid agency to provide orally administered (~~(enteral nutrition products)~~) and tube-delivered enteral nutrition products, equipment, and related supplies:

- (a) A pharmacy provider; or
- (b) A durable medical equipment (~~(+DME+)~~) provider.

(2) To receive payment for orally administered (~~(enteral nutrition products and)~~) or tube-delivered enteral nutrition products, equipment and related supplies, a provider must:

(a) Meet the requirements (~~(in)~~) under chapters (~~(388-501 and 388-502 WAC;)~~) 182-501 and 182-502 WAC.

(b) Provide only those services that are within the scope of the provider's license(~~(+)~~).

(c) Obtain prior authorization from the (~~(department)~~) agency, if required, before delivery to the client and before billing the (~~(department;)~~) agency.

(d) Deliver enteral nutritional products in quantities sufficient to meet the client's authorized needs, not to exceed a one-month supply(~~(+)~~).

(e) Confirm with the client or the client's caregiver that the next month's delivery of authorized orally administered enteral nutrition products is necessary and document the confirmation in the client's file. The (~~(department)~~) agency does not pay for automatic periodic delivery of products(~~(+)~~).

(f) Furnish clients with new or used equipment that includes full manufacturer and dealer warranties for at least one year(~~(+and)~~).

(g) Notify the client's ((physician)) primary care provider if the client has indicated the enteral nutrition product is not being used as prescribed and document the notification in the client's file.

(h) Have a valid prescription. To be valid, a prescription must be:

(i) Written, dated and signed (including the prescriber's credentials) by the prescriber on or before the date of delivery of the product, equipment or related supplies;

(ii) No older than one year from the date the prescriber signed the prescription; and

(iii) State the specific item or service requested, the client's diagnosis and estimated length of need, quantity and units of measure, frequency and directions for use.

(i) Have proof of delivery.

(i) When a client or the client's authorized representative receives the product directly from the provider, the provider must furnish the proof of delivery upon agency request. The proof of delivery must:

(A) Be signed and dated by the client or the client's authorized representative. The date of the signature must be the date the item was received by the client; and

(B) Include the client's name and a detailed description of the item(s) delivered, including the quantity and brand name.

(ii) When a provider uses a shipping service to deliver items, the provider must furnish proof of delivery upon agency request. The proof of delivery must include:

(A) The client's name or other client identifier;

(B) The delivery service package identification number;

(C) The delivery address; and

(D) The quantity, a detailed description, and brand name of the item being shipped.

(j) Bill the agency with the following dates of service:

(i) If the provider used a shipping service, the provider must use the shipping date as the date of service; or

(ii) If the client or the client's authorized representative received the product directly from the provider, the provider must use the date of receipt as the date of service.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-500 Covered enteral nutrition products, equipment and related supplies—Orally administered—Clients age twenty ((years of age)) and younger only. (1) The ((department)) medicaid agency covers orally administered enteral nutrition products for a client((s)) age twenty ((years of age)) and younger only((, as follows)) if the client:

(a) ((The client's)) Has a nutritional need((s)) that cannot be met using traditional foods, ((baby foods, and other regular grocery products that can be pulverized or blenderized and used to meet the client's caloric and nutritional needs;

(b) The client)) baby foods, and other grocery products that can be pulverized or blenderized, which is supported by an evaluation by

an agency-contracted dietitian that recommends an order for oral enteral nutrition products or formulas;

(b) Is evaluated by an RD within thirty days of beginning oral enteral nutrition products and periodically while receiving enteral nutrition products. Periodic reevaluations must be performed at least:

(i) Every four months for a client age three or younger; and

(ii) Every six months for a client older than age three;

(c) Is able to manage ((their)) feedings in one of the following ways:

(i) Independently; or

(ii) With a ((caregiver who can manage the feedings; and

(c) The client)) caregiver's assistance; and

(d) Has a medical condition under subsection (2) of this section, or meets one of the following clinical criteria:

(i) Once a stable growth pattern has been established, a decrease across at least two percentile lines on the Centers for Disease Control and Prevention's growth charts or the World Health Organization's growth standards;

(ii) Failure to gain weight on two successive measurements, despite dietary interventions; or

(iii) Documented specific, clinical factors that place the client at risk for a compromised nutrition status.

(2) **Medical conditions.** The client must meet the criteria for one of the following medical conditions:

(a) Acquired immune deficiency syndrome (AIDS). ((Providers must obtain prior authorization to receive payment.)) The client must((+)

(A) Be in a wasting state;

(B) Have a weight for length less than or equal to the fifth percentile if the client is three years of age or younger; or

(C) Have a body mass index (BMI) of:

(I) Less than or equal to the fifth percentile if the client is four through seventeen years of age; or

(II) Less than or equal to 18.5 if the client is eighteen through twenty years of age; or

(D) Have a BMI of:

(I) Less than or equal to twenty five; and

(II) An unintentional or unexplained weight loss of five percent in one month, seven and a half percent in three months, or ten percent in six months.

(ii)) be in a wasting state and have a body mass index (BMI) less than the tenth percentile for the client's age, or an unintentional or unexplained weight loss.

(b) Amino acid, fatty acid, and carbohydrate metabolic disorders. The client must require a specialized nutritional product.

((A) The client must require a specialized nutrition product; and

(B) Providers must follow the department's expedited prior authorization process to receive payment.

(iii)) (c) Cancer((+s)).

((A)) (i) The client must be receiving chemotherapy ((and/or)), radiation therapy, or post-therapy treatment;

((B) The department pays for orally administered nutritional products for up to three months following the completion of chemotherapy or radiation therapy; and

(C) Providers must follow the department's expedited prior authorization process to receive payment.

(iv)) and

(ii) The agency pays for orally administered enteral nutritional products for up to three months following the completion of chemotherapy or radiation therapy.

(d) Chronic renal failure. The client must be receiving dialysis and have a fluid restrictive diet in order to use nutrition bars.

~~((A) The client must be receiving dialysis and have a fluid restrictive diet in order to use nutrition bars; and~~

~~(B) Providers must follow the department's expedited prior authorization process to receive payment.~~

(v)) (e) Decubitus pressure ulcers. The client must have stage three or greater decubitus pressure ulcers and an albumin level of 3.2 or below.

~~((A) The client must have stage three or greater decubitus pressure ulcers and an albumin level of 3.2 or below; and~~

~~(B) Providers must follow the department's expedited prior authorization process to receive a maximum of three month's payment.~~

(vi)) (f) Failure to thrive ((~~o~~)), malnutrition((~~+~~)), or malabsorption as a result of a stated primary diagnosed disease. The client must have a disease or medical condition that is not due to cognitive, emotional, or psychological impairment. The client must meet one of the following:

(i) If the client is age two or younger, have a weight-for-length less than or equal to the fifth percentile;

(ii) If the client is age three through twenty, have a BMI less than or equal to twenty-five and an unintentional or unexplained weight loss of five percent in one month, seven and one-half percent in three months, or ten percent in six months;

(iii) If the client is age three through seventeen, have a BMI less than or equal to the fifth percentile; or

(iv) If the client is age eighteen through twenty, have a BMI less than or equal to eighteen and one-half, and an albumin level of three and one-half or below.

~~((A) The provider must obtain prior authorization to receive payment; and~~

~~(B) The client must have:~~

~~(I) A disease or medical condition that is only organic in nature and not due to cognitive, emotional, or psychological impairment; and~~

~~(II) A weight for length less than or equal to the fifth percentile if the client is two years of age or younger; or~~

~~(III) A BMI of:~~

~~(aa) Less than or equal to the fifth percentile if the client is three through seventeen years of age; or~~

~~(bb) Less than or equal to 18.5, an albumin level of 3.5 or below, and a cholesterol level of one hundred sixty or below if the client is age eighteen through twenty years of age; or~~

~~(IV) Have a BMI of:~~

~~(aa) Less than or equal to twenty five; and~~

~~(bb) An unintentional or unexplained weight loss of five percent in one month, seven and a half percent in three months, or ten percent in six months.~~

(vii)) (g) A medical condition((s (e.g.,)) (for example, dysphagia) requiring a thickener.

~~((A) The client must:~~

~~(I) Require a thickener to aid in swallowing or currently be transitioning from tube feedings to oral feedings; and~~

~~(II) Be evaluated by a speech therapist or an occupational therapist who specializes in dysphagia. The report recommending a thickener must be in the client's chart in the prescriber's office.~~

~~(B) Providers must follow the department's expedited prior authorization process to receive payment.~~

~~(d) If four years of age or younger.~~

~~(i) The client must:~~

~~(A) Have a certified registered dietitian (RD) evaluation with recommendations which support the prescriber's order for oral enteral nutrition products or formulas; and~~

~~(B) Have a signed and dated written notification from WIC indicating one of the following:~~

~~(I)) If prescribing a thickener to:~~

~~(i) A client age one or older, the provider must follow the agency's expedited prior authorization (EPA) process to receive payment, and the client must:~~

~~(A) Require a thickener to aid in swallowing or currently be transitioning from tube feedings to oral feedings; and~~

~~(B) Be evaluated by a speech therapist or an occupational therapist who specializes in dysphagia. The report recommending a thickener must be in the client's chart in the prescriber's office.~~

~~(ii) A client younger than age one, the provider must obtain prior authorization (PA). The provider's request for PA must include:~~

~~(A) Clinical documentation that supports the medical necessity of the request; and~~

~~(B) The report recommending a thickener from a speech therapist or occupational therapist specializing in dysphagia.~~

~~(3) **Women, infants, and children (WIC) program.**~~

~~(a) If the client is age four or younger, the client must have a notice signed and dated by the WIC program to receive oral enteral nutrition products. The notice must verify:~~

~~(i) The client is not eligible for the ((women, infants, and children ()))WIC((+)) program; ((or~~

~~(II)) (ii) The client is eligible for the WIC program, but the client's need for ((the)) an oral enteral nutrition product or formula exceeds WIC's allowed amount; or~~

~~((III) The requested oral enteral nutrition product or formula is not available through the WIC program. Specific, detailed documentation of the tried and failed efforts of similar WIC products, or the medical need for alternative products must be in the prescriber's chart for the client; and~~

~~(C) Meet one of the following clinical criteria:~~

~~(I) Low birth weight (less than 2500 grams);~~

~~(II) A decrease across two or more percentile lines on the CDC growth chart, once a stable growth pattern has been established;~~

~~(III) Failure to gain weight on two successive measurements, despite dietary interventions; or~~

~~(IV) Documented specific, clinical factors that place the child at risk for a compromised nutrition and/or health status.~~

~~(ii) Providers must follow the department's expedited prior authorization process to receive payment.~~

~~(e) If five years of age through twenty years of age.~~

~~(i) The client must:~~

~~(A) Have a certified RD evaluation, for eligible clients, with recommendations which support the prescriber's order for oral enteral nutrition products; and~~

~~(B) Meet one of the following clinical criteria:~~

~~(I) A decrease across two or more percentile lines on the CDC growth chart, once a stable growth pattern has been established;~~

~~(II) Failure to gain weight on two successive measurements, despite dietary interventions; or~~

~~(III) Documented specific, clinical factors that place the child at risk for a compromised nutrition and/or health status.~~

~~(ii) Providers must follow the department's expedited prior authorization process to receive payment.~~

~~(2) Requests to the department for prior authorization for orally administered enteral nutrition products must include a completed Oral Enteral Nutrition Worksheet Prior Authorization Request (DSHS 13-743), available for download at: <http://www1.dshs.wa.gov/msa/forms/eforms.html>. The DSHS 13-743 form must be:~~

~~(a) Completed by the prescribing physician, advanced registered nurse practitioner (ARNP), or physician assistant certified (PA-C), verifying all of the following:~~

~~(i) The client meets the requirements listed in this section;~~

~~(ii) The client's physical limitations and expected outcome;~~

~~(iii) The client's current clinical nutritional status, including the relationship between the client's diagnosis and nutritional need;~~

~~(iv) For a client eighteen through twenty years of age, the client's recent weight loss history and a comparison of the client's actual weight to ideal body weight and current body mass index (BMI);~~

~~(v) For a client younger than eighteen years of age, the client's growth history and a comparison to expected weight gain, and:~~

~~(A) An evaluation of the weight for length percentile if the client is three years of age or younger; or~~

~~(B) An evaluation of the BMI if the client is four through seven years of age.~~

~~(vi) The client's medical condition and the exact daily caloric amount of needed enteral nutrition product;~~

~~(vii) The reason why the client is unable to consume enough traditional food to meet nutritional requirements;~~

~~(viii) The medical reason the specific enteral nutrition product, equipment, and/or supply is prescribed;~~

~~(ix) Documentation explaining why less costly, equally effective products or traditional foods are not appropriate;~~

~~(x) The number of days or months the enteral nutrition products, equipment, and/or necessary supplies are required; and~~

~~(xi) The client's likely expected outcome if enteral nutritional support is not provided.~~

~~(b) Written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the enteral nutrition product, equipment, or related supply. This form must not be back dated; and~~

~~(c) Be submitted within three months from the date the prescriber signs the prescription.~~

~~(3) Clients twenty years of age and younger must be evaluated by a certified RD within thirty days of initiation of enteral nutrition products and periodically (at the discretion of the certified RD) while receiving enteral nutrition products. The certified RD must be a current provider with the department.))~~

(iii) The client is eligible for the WIC program, but the product or formula is not available through the WIC program.

(b) If the client is unable to receive necessary oral enteral nutrition products from WIC, the provider must keep the following information in the client's file:

(i) Documentation that the requested oral enteral nutrition product or formula is not available through the WIC program; or
(ii) Reasons why a similar WIC product does not meet the client's needs.

(4) Authorization. To receive payment for covered oral enteral nutrition products, a provider must:

(a) Request PA for a client who does not meet the criteria for a medical condition under subsection (2)(a) or (f) of this section;

(b) Request EPA for a client who meets the criteria for a medical condition under subsection (2)(b) through (e) of this section; or

(c) Request authorization for a client with a medical condition that requires a thickener, according to the client's age and as required under subsection (2)(g) of this section.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-600 Covered enteral nutrition products, equipment and related supplies—Tube-delivered. (1) ~~((The department))~~ **General.** The agency covers tube-delivered enteral nutrition products, equipment, and related supplies, ((without prior authorization, for eligible clients)) regardless of age((, as follows:

~~(a) When the client meets the following clinical criteria:~~

~~(i) The client)) if the client:~~

(a) Has a valid prescription under WAC 182-554-400, which must be submitted within three months of the date the prescriber signed the prescription;

~~((A) To be valid, a prescription must:~~

~~(I) Be written by a physician, advanced registered nurse practitioner (ARNP), or physician's assistant certified (PA-C);~~

~~(II) Be written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the supply, equipment, or device. Prescriptions must not be back-dated;~~

~~(III) Be submitted within three months from the date the prescriber signs the prescription; and~~

~~(IV) State the specific product requested, diagnosis, estimated length of need (months), and quantity.~~

~~(ii) The client is able to)) (b) Can manage ((his or her)) tube feedings ((in one of the following ways)):~~

~~((A)) (i) Independently; or~~

~~((B)) (ii) With a ((caregiver who can manage the feedings)) caregiver's assistance; and~~

~~((iii) The client)) (c) Has at least one of the following medical conditions:~~

~~((A) A nonfunction or)) (i) A disease or ((clinical)) condition that impairs the client's ability to ingest sufficient calories and nutrients ((from products orally or does not permit sufficient)) or restricts calories and nutrients from ((food to reach the)) reaching the client's gastrointestinal tract; or~~

~~((B)) (ii) A disease or condition of the small bowel that impairs digestion and absorption of an oral diet, either of which requires tube feedings to provide sufficient nutrients to maintain~~

weight and strength that is properly proportioned to the client's overall health status.

~~((b) With the following limitations:~~

~~(i))~~ (2) **Limitations.** The following limitations apply to the agency's payment for covered tube-delivered enteral nutrition products, equipment and related supplies. The agency pays for:

(a) One purchased pump, per client, in a five-year period; ((and (ii)) (b) One purchased nondisposable intravenous pole required for enteral nutrition product delivery, per client, per lifetime((

~~(c) Providers must follow the department's expedited prior authorization process to receive payment.~~

~~(2) The department pays for up to twelve months of rental payments for tube delivered enteral nutrition equipment. After twelve months of rental, the department considers the equipment purchased and it becomes the client's property.~~

~~(3) The department pays for replacement parts for tube delivered enteral nutrition equipment, with prior authorization, when:~~

~~(a)); and~~

(c) No more than twelve months of equipment rental. After twelve months the agency considers the equipment purchased and it becomes the client's property.

(3) **Women, infants, and children (WIC) program.**

(a) If the client is age four or younger, the client must have a signed and dated written notification from the WIC program to receive tube delivered enteral nutrition products. The notice must verify:

(i) The client is not eligible for the WIC program; or

(ii) The client is eligible for the WIC program, but the client's need for a tube delivered enteral nutrition product exceeds WIC's allowed amount.

(b) If the client is age four or younger and is unable to receive a necessary tube delivered enteral nutrition product from WIC, the provider must keep the following information in the client's file:

(i) Documentation that the requested tube delivered product is not available through the WIC program; or

(ii) Reasons why a similar WIC product does not meet the client's needs.

(4) **Authorization.**

(a) If the client meets the criteria in subsection (1) of this section, the provider must follow the agency's expedited prior authorization (EPA) process to receive payment.

(b) If the client does not meet the criteria in subsection (1) of this section, the provider must submit a request for prior authorization (PA). The PA request must meet the requirements under WAC 182-554-700(3).

(c) The agency pays for enteral equipment replacement parts with PA if the equipment is:

(i) Owned by the client;

~~((b))~~ (ii) Less than five years old; and

~~((c))~~ (iii) No longer under warranty.

WAC 182-554-700 Enteral nutrition products, equipment and related supplies—Authorization. ~~((1) The department requires providers to obtain authorization for covered orally administered enteral nutrition products, and tube-delivered enteral equipment and related supplies as required in this chapter and in published department billing instructions and/or numbered memoranda or when the clinical criteria required in this chapter are not met.~~

~~(a) For prior authorization (PA), a provider must submit a written request to the department as specified in WAC 388-554-500(2).~~

~~(b) For expedited prior authorization (EPA), a provider must establish that the client's condition meets the clinically appropriate EPA criteria outlined in this chapter and in the department's published enteral nutrition billing instructions. The appropriate EPA number must be used when the provider bills the department.~~

~~(c) Upon request, a provider must provide documentation to the department showing how the client's condition met the criteria for PA or EPA.~~

~~(2) Authorization requirements in this chapter are not a denial of service for the client.~~

~~(3) When an oral enteral nutrition product or tube-delivered enteral nutrition equipment or related supply requires authorization, the provider must properly request authorization in accordance with the department's rules, billing instructions, and numbered memoranda.~~

~~(4) When authorization is not properly requested, the department rejects and returns the request to the provider for further action. The department does not consider the rejection of the request to be a denial of service.~~

~~(5) The department's authorization does not necessarily guarantee payment.~~

~~(6) The department evaluates requests for authorization for covered enteral nutrition products, equipment, and related supplies that exceed limitations in this chapter on a case-by-case basis in accordance with WAC 388-501-0169.~~

~~(7) The department may recoup any payment made to a provider if the department later determines that the service was not properly authorized or did not meet the EPA criteria. Refer to WAC 388-502-0100 (1)(c).~~

~~(8))~~ (1) General.

(a) Providers must obtain authorization for all covered orally administered or tube-delivered enteral nutrition products, equipment and related supplies as required in this chapter, the agency's published billing instructions, and when the clinical criteria in this chapter are not met.

(b) Authorization does not guarantee payment.

(c) Authorization requirements are not a denial of service.

(d) The agency may reject an incomplete authorization request and return it to the provider for further action. A returned request is not a denial of service.

(e) If a request for authorization exceeds limitations in this chapter, the agency evaluates the request under WAC 182-501-0169.

(f) If the agency determines that a service was wrongfully authorized or did not meet the expedited prior authorization (EPA) cri-

teria, the agency may recoup payment from the provider under chapters 182-502 and 182-502A WAC.

(g) Upon request, a provider must furnish documentation to the agency that shows how the client's condition met the criteria for prior authorization (PA) or EPA.

(2) **Prior authorization.** PA is required for:

(a) Orally administered enteral nutrition products under WAC 182-554-500(4); and

(b) Tube-delivered enteral equipment, replacement parts and related supplies under WAC 182-554-600(3).

(3) **Prior authorization request form.** The provider must submit a request for PA on the Oral Enteral Nutrition Worksheet Prior Authorization Request form. This form is available online at <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>. This form must be:

(a) Complete, with all fields full;

(b) Completed by the prescribing physician, advanced registered nurse practitioner, or physician assistant;

(c) Written, dated, and signed (including the prescriber's credentials) by the prescriber on the same day, and before the date of delivery. This form must not be backdated; and

(d) Submitted within three months of the date the prescriber signed the prescription.

(4) **Expedited prior authorization.** For EPA, a provider must establish that the client's condition meets the clinically appropriate EPA criteria outlined in this chapter and in the agency's published billing instructions. The provider must use the appropriate EPA number when billing the agency.

(5) If a fee-for-service client enrolls ((in a department contracted MCO before the department completes)) with an agency contracted managed care organization (MCO) before the purchase or rental of ((prescribed enteral nutrition products, necessary equipment and supplies:

(a) The department rescinds the authorization of the purchase or rental;

(b) The department)) authorized equipment is complete:

(a) The agency stops paying for ((any)) the equipment on the last day of the month ((preceding)) before the month in which the client ((becomes enrolled)) enrolls in the managed care plan; and

((c) The department contracted MCO determines the client's continuing need for the equipment and is then responsible for the client.

(9) The department rescinds any)) (b) The MCO may reevaluate the client's need for the equipment.

(6) The agency may rescind authorization for ((prescribed)) enteral equipment if ((the equipment was not delivered to the client before)) the client:

(a) ((Loses medical eligibility;)) Enrolls in, or becomes eligible for, an MCO;

(b) Becomes covered by a hospice agency and the equipment is used in the treatment of the terminal diagnosis or related condition(s);

(c) ((Becomes eligible for a department contracted managed care plan;)) Loses eligibility; or

(d) Dies.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-800 Noncovered—Enteral nutrition products, equipment, and related supplies. (1) The ((department)) medicaid agency does not cover the following:

(a) Nonmedical equipment, supplies, and related services(~~(, including but not limited to, back-packs)~~) (for example, backpacks, pouches, bags, baskets, or other carrying containers); and

(b) Orally administered enteral nutrition products for any client(~~(s))~~ age twenty-one (~~(years of age)~~) and older.

(2) A provider may request an exception to rule ((ETR), as described in WAC 388-501-0160, may be requested) under WAC 182-501-0160 for a noncovered service.

(3) When early and periodic screening, diagnosis, and treatment (EPSDT) applies, the ((department)) agency evaluates a request for a noncovered service, equipment, or ((supply according to the process in WAC 388-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see WAC 388-534-0100)) related supplies under WAC 182-501-0165. See WAC 182-534-0100 for EPSDT rules((+)).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-554-900 Reimbursement—Enteral nutrition products, equipment, and related supplies. (1) The ((department)) medicaid agency:

(a) Determines reimbursement for enteral nutrition products, equipment, and related-supplies according to a set fee schedule;

(b) Considers medicare's current fee schedule when determining maximum allowable fees;

(c) Considers vendor rate increases or decreases as directed by the legislature; ~~((and))~~

(d) Evaluates and updates the maximum allowable fees for enteral nutrition products, equipment, and related supplies at least once per year.

(2) The ~~((department's payment))~~ agency pays for covered enteral nutrition products, equipment and related supplies according to a set fee schedule. The agency's payment includes all of the following:

(a) Any adjustment(~~(s))~~ or modification(~~(s))~~ to the equipment ~~((required))~~ within three months of the date of delivery(~~(. This does not apply to adjustments required because of changes)~~) as long as the adjustment is not caused by a change in the client's medical condition;

(b) Instructions to the client ~~((and/))~~ or caregiver on the safe and proper use of equipment provided;

(c) Full service warranty;

(d) Delivery and pick-up; and

(e) Fitting and adjustments.

(3) If changes in circumstance occur during the rental period, such as death or ineligibility, the ((department)) agency discontinues payment effective on the date of the change in circumstance.

(4) The ((department)) agency does not pay for simultaneous rental and ((a)) purchase of any item.

(5) The ((department)) agency does not reimburse ((providers)) for equipment ((that is supplied to them)) a provider receives at no cost ((through suppliers/manufacturers)).

(6) The provider who furnishes enteral nutrition equipment to a client is responsible for any costs incurred to have another provider repair equipment if all of the following apply:

(a) Any equipment that the ((department)) agency considers purchased requires repair during the applicable warranty period;

(b) The provider refuses or is unable to fulfill the warranty;
and

(c) The client still needs the equipment.

(7) If the rental equipment must be replaced during the warranty period, the ((department)) agency recoups fifty percent of the total amount previously paid toward rental and eventual purchase of the equipment delivered to the client if:

(a) The provider is unwilling or unable to fulfill the warranty;
and

(b) The client still needs the equipment.