



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

- Preproposal Statement of Inquiry was filed as WSR 16-13-009; 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).

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

Title of rule and other identifying information:

WAC 182-543-2000 DME, CRT, P&O, Medical Supplies – Eligible providers & provider requirements
WAC 182-543-5000 DME, CRT, P&O, Medical Supplies – Covered – Prosthetics/orthotics

Hearing location:

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: **July 11, 2017** Time: **10:00 a.m.**

Date of intended adoption: Not sooner than July 12, 2017
(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 **5:00 pm on July 11, 2017**

Assistance for persons with disabilities: Contact Amber Lougheed by July 7, 2017
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 agency is amending these rules to add occupational therapists to the list of eligible prosthetic and orthotic providers. The agency previously filed these amendments, along with amendments to WAC 182-543-0500 and WAC 182-545-200, to comply with federal rules under 42 CFR Part 440 that establish who can prescribe medical supplies and equipment. The agency filed the previous amendments under WSR 16-19-032 and held a hearing on October 25, 2016. However, the amendments based on the federal rules have been delayed. A second public hearing is required to move forward with the sections of these rules that add occupational therapists as eligible prosthetic and orthotics providers. The agency will hold another public hearing on amendments to comply with the federal rules at a later date.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160, 42 CFR Part 440

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE
June 7, 2017

NAME
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

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

DATE: June 07, 2017

TIME: 7:50 AM

WSR 17-12-107

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.....Melinda Froud	PO Box 42716, Olympia WA, 98504-2716	(360) 725-1408
Implementation...Erin Mayo/Jean Gowen	PO Box 45506, Olympia WA, 98504-5506	(360) 725-1729
Enforcement.....Erin Mayo/Jean Gowen	PO Box 45506, Olympia WA, 98504-5506	(360) 725-1729

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 agency has determined that the proposed change does not impose a disproportionate cost impact on small businesses or nonprofits.

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.

WAC 182-543-2000 DME and related supplies, complex rehabilitation technology, prosthetics, orthotics, medical supplies and related services—Eligible providers and provider requirements. (1) The medicaid agency pays qualified providers for durable medical equipment (DME) and related supplies, complex rehabilitation technology (CRT), prosthetics, orthotics, medical supplies, repairs, and related services on a fee-for-service basis as follows:

(a) DME providers who are enrolled with medicare for DME and related repair services;

(b) Qualified CRT suppliers who are enrolled with medicare for DME and related repair services;

(c) Medical equipment dealers who are enrolled with medicare, pharmacies who are enrolled with medicare, and home health agencies under their national provider (~~indicator~~) identifier (NPI) for medical supplies;

(d) Prosthetics and orthotics providers who are licensed by the Washington state department of health in prosthetics and orthotics. Medical equipment dealers and pharmacies that do not require state licensure to provide selected prosthetics and orthotics may be paid for those selected prosthetics and orthotics only as long as the medical equipment dealers and pharmacies meet the medicare enrollment requirement;

(e) Occupational therapists providing orthotics who are licensed by the Washington state department of health in occupational therapy;

(f) Physicians who provide medical equipment and supplies in the office. The agency may pay separately for medical supplies, subject to the provisions in the agency's resource-based relative value scale fee schedule; and

(~~(f)~~) (g) Out-of-state (~~orthotics and~~) prosthetics and orthotics providers who meet their state regulations.

(2) Providers and suppliers of DME and related supplies, CRT, prosthetics, orthotics, medical supplies and related items must:

(a) Meet the general provider requirements in chapter 182-502 WAC;

(b) Have the proper business license and be certified, licensed (~~and/or~~) and bonded if required, to perform the services billed to the agency;

(c) Have a valid prescription(~~(+)~~) for the DME.

(i) To be valid, a prescription must:

(A) Be written on the agency's Prescription Form (HCA 13-794). The agency's electronic forms are available online at: <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>;

(B) Be written by a physician, advanced registered nurse practitioner (ARNP), naturopathic physician, or physician's assistant certified (PAC);

(C) 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;

(D) Be no older than one year from the date the prescriber signs the prescription; and

(E) State the specific item or service requested, diagnosis, estimated length of need (weeks, months, or years), and quantity.

(ii) For dual-eligible ((medicare/medicaid)) clients when medicare is the primary payer and the agency is being billed for ((the copay and/or deductible only)) only the copay, only the deductible, or both, subsection (2)(a) of this section does not apply.

(d) Provide instructions for use of equipment;

(e) ((Furnish)) Provide only new equipment to clients ((that)), which include((s)) full manufacturer and dealer warranties. See WAC 182-543-2250(3);

(f) ((Furnish)) Provide documentation of proof of delivery, upon agency request (see WAC 182-543-2200); and

(g) Bill the agency using only the allowed procedure codes listed in the agency's published DME and related supplies, prosthetics and orthotics, medical supplies and related items billing instructions.

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-5000 Covered—Prosthetics/orthotics. (1) The agency covers, without prior authorization (PA), the following prosthetics and orthotics, with stated limitations:

(a) Thoracic-hip-knee-ankle orthosis (THKAO) standing frame - One every five years.

(b) Preparatory, above knee "PTB" type socket, nonalignable system, pylon, no cover, SACH foot plaster socket, molded to model - One per lifetime, per limb.

(c) Preparatory, below knee "PTB" type socket, nonalignable system, pylon, no cover, SACH foot thermoplastic or equal, direct formed - One per lifetime, per limb.

(d) Socket replacement, below the knee, molded to patient model - One per twelve-month period, per limb.

(e) Socket replacement, above the knee/knee disarticulation, including attachment plate, molded to patient model - One per twelve-month period, per limb.

(f) All other prosthetics and orthotics are limited to one per twelve-month period per limb.

(2) The agency pays only licensed prosthetic and orthotic providers to supply prosthetics and orthotics. This licensure requirement does not apply to the following:

(a) ((Selected prosthetics and orthotics that do not require specialized skills to provide; and)) Providers who are not required to have specialized skills to provide select orthotics, but meet DME and pharmacy provider licensure requirements;

(b) Occupational therapists providing orthotics who are licensed by the Washington state department of health in occupational therapy; and

(c) Out-of-state providers, who must meet the licensure requirements of that state.

(3) The agency pays only for prosthetics or orthotics that are listed as such by the Centers for Medicare and Medicaid Services (CMS), that meet the definition of prosthetic or orthotic ((as defined)) in WAC 182-543-1000 and are prescribed ((per)) under WAC 182-543-1100 and 182-543-1200.

(4) The agency pays for repair or modification of a client's current prosthesis. To receive payment, all of the following must be met:

(a) All warranties are expired;

(b) The cost of the repair or modification is less than fifty percent of the cost of a new prosthesis and the provider has submitted supporting documentation; and

(c) The repair (~~is warranted~~) must have a warranty for a minimum of ninety days.

(5) (~~The agency requires the client to take responsibility~~) Clients are responsible for routine maintenance of ((a)) their prosthetic or orthotic. If ((the)) a client does not have the physical or mental ability to perform ((the)) this task, (~~the agency requires~~) the client's caregiver (~~to be responsible~~) is responsible for routine maintenance of the prosthetic or orthotic. The agency requires (~~prior authorization~~) PA for extensive maintenance to a prosthetic or orthotic.

(6) For prosthetics dispensed for ((purely)) cosmetic reasons only, see WAC 182-543-6000(~~, Noncovered DME~~) DME and related supplies, medical supplies and related services—Noncovered.