



# 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 16-15-050; 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 16-20-081
- Continuance of WSR \_\_\_\_\_

### Title of rule and other identifying information:

WAC 182-551-1860 Concurrent care for hospice clients twenty years of age and younger

### Hearing location:

Health Care Authority  
Cherry Street Plaza Building; Pear Conf Rm 107  
626 - 8<sup>th</sup> 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](http://www.hca.wa.gov/documents/directions_to_csp.pdf)  
or directions can be obtained by calling: (360) 725-1000

Date: **May 9, 2017** Time: **10:00 a.m.**

Date of intended adoption: Not sooner than **May 10, 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 – 8<sup>th</sup> Avenue, Olympia WA 98504  
e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov)  
fax (360) 586-9727

by **5:00 pm on May 9, 2017**

Assistance for persons with disabilities: Contact Amber Lougheed by **May 5, 2017**  
e-mail: [amber.lougheed@hca.wa.gov](mailto: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 amended this rule to align the language with the Federal rules in 42 U.S.C. 1396d (o)(1)(C) for hospice concurrent care. The amended language states that a client age twenty and younger may voluntarily elect hospice care without waiving any rights to services that the client is entitled to under Title XIX Medicaid and Title XXI Children's Health Insurance Program (CHIP) that are related to the treatment of the client's condition for which a diagnosis of terminal illness has been made. The agency also removed the prior authorization requirement for enrollment in a concurrent care plan.

**Reasons supporting proposal:** The agency revised these rules in response to comments received from stakeholders in the first public hearing, held on November 8, 2016, filed under WSR 16-20-081.

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160

**Statute being implemented:** RCW 41.05.021, 41.05.160, Section 2302 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 1396d (o)(1)(C)

### Is rule necessary because of a:

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:  
Section 2302 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 1396d (o)(1)(C)

### CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: March 28, 2017**

**TIME: 3:09 PM**

**WSR 17-08-031**

**DATE**  
March 28, 2017

**NAME**  
Wendy Barcus

**SIGNATURE**

**TITLE**  
HCA Rules Coordinator

**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..... Wendy Barcus	PO Box 42716, Olympia, WA, 98504-2716	(360) 725-1306
Implementation.... Nancy Hite	PO Box 75506, Olympia, WA 98504-5506	(360) 725-1611
Enforcement..... Nancy Hite	PO Box 75506, Olympia, WA 98504-5506	(360) 725-1611

**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 filing 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 182-551-1860 Concurrent care for hospice clients age twenty ~~((years of age))~~ and younger.** (1) In accordance with ~~((Section 2302 of the Patient Protection and Affordable Care Act of 2010 and Section 1814(a)(7) of the Social Security Act, hospice palliative services are available to))~~ 42 U.S.C. 1396d(o)(1)(C), a client((s)) age twenty ~~((years of age))~~ and younger ~~((without forgoing curative services which))~~ may voluntarily elect hospice care without waiving any rights to services that the client is entitled to under Title XIX Medicaid and Title XXI Children's Health Insurance Program (CHIP) ~~((for treatment of the terminal condition))~~ that are related to the treatment of the client's condition for which a diagnosis of terminal illness has been made.

(2) ~~((Unless otherwise specified within this section, curative treatment including))~~ The related services in subsection (1) of this section and medications requested for clients age twenty ~~((years of age))~~ and younger are subject to the medicaid agency's specific program rules governing those services or medications.

(3) ~~((The following services aimed at achieving a disease-free state are included under the curative care benefit:~~

- ~~(a) Radiation;~~
- ~~(b) Chemotherapy;~~
- ~~(c) Diagnostics, including laboratory and imaging;~~
- ~~(d) Licensed health care professional services;~~
- ~~(e) Inpatient and outpatient hospital care;~~
- ~~(f) Surgery;~~
- ~~(g) Medication;~~
- ~~(h) Equipment and related supplies; and~~
- ~~(i) Ancillary services, such as medical transportation.~~

~~(4) The following are not included under the curative care benefit:~~

- ~~(a) Hospice covered services as described in WAC 182-551-1210;~~
- ~~(b) Services related to symptom management such as:~~
  - ~~(I) Radiation;~~
  - ~~(II) Chemotherapy;~~
  - ~~(III) Surgery;~~
  - ~~(IV) Medication; and~~
  - ~~(V) Equipment and related supplies; and~~
- ~~(c) Ancillary services, such as medical transportation.~~

~~(5) Health care professionals must request prior authorization from the agency in accordance with WAC 182-501-0163 for enrollment in a concurrent care plan. Prior authorization requests are subject to medical necessity review under WAC 182-501-0165.~~

~~(6))~~ If the ~~((curative treatment))~~ services in this section include((s)) noncovered services ~~((in accordance with))~~ listed in WAC 182-501-0070, the provider must request an exception to rule ~~((in accordance with))~~ under WAC 182-501-0160.

~~((7))~~ (4) If the medicaid agency denies a request for a covered service, refer to WAC 182-502-0160, billing a client, for when a client may be responsible to pay for a covered service.