

WSR 22-22-052

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed October 27, 2022, 2:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-11-061.

Title of Rule and Other Identifying Information: WAC 182-550-7500 OPSS rate and 182-550-7550 OPSS payment enhancements.

Hearing Location(s): On December 6, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (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. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_ap92iSBET3y1jnHyL4hUig. 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.

Date of Intended Adoption: December 7, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by December 6, 2022, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.Larson@hca.wa.gov, by November 18, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-550-7500 by removing duplicate language found in subsections (6), (7), and (8). The same language can be found in WAC 182-550-7550. The agency is amending WAC 182-550-7550 to align with ESSB 5693 by extending the rate for an additional year and adding language for an additional increased rate for providers who take single bed certifications. Language updated for readability.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: ESSB 5693, section 211(52), chapter 297, Laws of 2022; RCW 41.05.021, 41.05.160.

Rule is necessary because of state court decision, ESSB 5693, section 211(52), chapter 297, Laws of 2022.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Tracy Huynh, P.O. Box 55686, Olympia, WA 98504-5686, 360-725-1311.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:
Is fully exempt.

October 27, 2022
Wendy Barcus
Rules Coordinator

OTS-4152.1

AMENDATORY SECTION (Amending WSR 22-03-008, filed 1/6/22, effective 2/6/22)

WAC 182-550-7500 OPSS rate. (1) The medicaid agency calculates hospital-specific outpatient prospective payment system (OPPS) rates using all of the following:

- (a) A base conversion factor established by the agency;
- (b) An adjustment for direct graduate medical education (DGME);

and

(c) The latest wage index information established and published by the centers for medicare and medicaid services (CMS) when the OPPS rates are set for the upcoming year. Wage index information reflects labor costs in the cost-based statistical area (CBSA) where a hospital is located.

(2) Base conversion factors. The agency calculates the base enhanced ambulatory patient group (EAPG) conversion factor during a hospital payment system rebasing. The base is calculated as the maximum amount that can be used, along with all other payment factors and adjustments described in this chapter, to maintain aggregate payments across the system. The agency will publish base conversion factors on its website.

(3) Wage index adjustments reflect labor costs in the CBSA where a hospital is located.

(a) The agency determines the labor portion of the base rate by multiplying the base rate by the labor factor established by medicare; then

(b) Multiplying the amount in (a) of this subsection is multiplied by the most recent wage index information published by CMS when the rates are set; then

(c) The agency adds the nonlabor portion of the base rate to the amount in (b) of this subsection to produce a hospital-specific wage adjusted factor.

(4) DGME. The agency obtains the DGME information from the hospital's most recently filed medicare cost report as available in the CMS health care cost report information system (HCRIS) dataset.

(a) The hospital's medicare cost report must cover a period of twelve consecutive months in its medicare cost report year.

(b) If a hospital's medicare cost report is not available on HCRIS, the agency may use the CMS Form 2552-10 to calculate DGME.

(c) In the case where a hospital has not submitted a CMS medicare cost report in more than eighteen months from the end of the hospital's cost reporting period, the agency may remove the hospital's DGME adjustment.

(d) The agency calculates the hospital-specific DGME by dividing the DGME cost reported on worksheet B, part 1 of the CMS cost report by the adjusted total costs from the CMS cost report.

(5) The formula for calculating the hospital's final specific conversion factor is:

$$\text{EAPG base rate} \times (.6(\text{wage index}) + .4)/(1-\text{DGME})$$

~~((6) The agency considers an in-state hospital a sole community hospital if all the following conditions apply. The hospital must:~~

~~(a) Be certified by CMS as a sole community hospital as of January 1, 2013.~~

~~(b) Have a level III adult trauma service designation from the department of health as of January 1, 2014.~~

~~(c) Have less than one hundred fifty acute care licensed beds in fiscal year 2011.~~

~~(d) Be owned and operated by the state or a political subdivision.~~

~~(e) Accept single bed certification patients as of July 1, 2021, according to RCW 71.05.745.~~

~~(7) If the hospital meets the agency's sole community hospital (SCH) criteria listed in subsection (6) of this section, effective:~~

~~(a) January 1, 2015, through June 30, 2018, the agency multiplies the hospital's specific conversion factor by 1.25;~~

~~(b) July 1, 2018, through June 30, 2023, the agency multiplies an in-state hospital's specific EAPG conversion factor by 1.50;~~

~~(c) July 1, 2023, the agency multiplies an in-state hospital's specific EAPG conversion factor by 1.25.~~

~~(8) The formula for calculating a sole community hospital's final conversion factor is:~~

$$\text{EAPG base rate} \times (.6(\text{wage index}) + .4)/(1-\text{DGME}) \times \text{SCH Factor}$$

[Statutory Authority: RCW 41.05.021, 41.05.160 and 2021 c 334 §§ 211(46) and 215(66). WSR 22-03-008, § 182-550-7500, filed 1/6/22, effective 2/6/22. Statutory Authority: RCW 41.05.021, 41.05.160, and 2019 c 415 § 211(14). WSR 20-01-075, § 182-550-7500, filed 12/11/19, effective 1/11/20. Statutory Authority: RCW 41.05.021, 41.05.160, and 2018 c 299 § 213 (1)(fff). WSR 18-16-059, § 182-550-7500, filed 7/26/18, effective 8/26/18. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 14-22-003, § 182-550-7500, filed 10/22/14, effective 11/22/14. Statutory Authority: RCW 41.05.021 and chapter 74.60 RCW. WSR 14-14-049, § 182-550-7500, filed 6/25/14, effective 7/26/14. WSR 11-14-075, recodified as § 182-550-7500, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 2009-11 Omnibus Operating Budget (ESHB 1244). WSR 09-12-062, § 388-550-7500, filed 5/28/09, effective 7/1/09. Statutory Authority: RCW 74.08.090, 74.09.500. WSR 07-13-100, § 388-550-7500, filed 6/20/07, effective 8/1/07; WSR 04-20-061, § 388-550-7500, filed 10/1/04, effective 11/1/04.]

AMENDATORY SECTION (Amending WSR 14-14-049, filed 6/25/14, effective 7/26/14)

WAC 182-550-7550 OPSS payment enhancements. (1) Pediatric adjustment.

(a) The medicaid agency establishes a policy adjustor to be applied to all enhanced ambulatory patient group (EAPG) services for clients under age ~~((eighteen))~~ 18 years.

(b) Effective July 1, 2014, this adjustor equals one point thirty-five (1.35).

(2) Chemotherapy and combined chemotherapy/pharmacotherapy adjustment.

(a) The agency establishes a policy adjustor to be applied to services grouped as chemotherapy drugs or combined chemotherapy and pharmacotherapy drugs.

(b) Effective July 1, 2014, this adjustor equals one point one (1.1).

(3) Sole community hospitals ~~((SCH))~~.

~~(a) ((To qualify as an SCH, a hospital must meet all of the following criteria. The hospital must))~~ For sole community hospital's rate enhancements, the agency multiplies the in-state hospital's specific EAPG conversion factor by a multiplier if the hospital meets all of the following criteria per RCW 74.09.5225:

~~(i) Be certified ((as an SCH by the Centers for Medicare and Medicaid Services (CMS))~~ by CMS as a sole community hospital as of January 1, 2013;

~~(ii) Have a level III adult trauma service designation ((by))~~ from the Washington state department of health (DOH) as of January 1, 2014;

~~(iii) Have less than ((one hundred fifty acute care licensed))~~ 150 acute care licensed beds in ((state)) fiscal year 2011; and

~~(iv) Be owned and operated by the state or ((one of its))~~ a political subdivisions.

~~(b) ((Effective January 1, 2015, the agency will apply an adjustor of one point twenty five (1.25) to the EAPG conversion factor for any hospital that meets the conditions in (a) of this subsection.))~~ As of July 1, 2021, an additional increase may be applied for hospitals that accept single bed certifications per RCW 71.05.745.

Enhancement Multiplier by Year				
Provider Category	Effective For the Dates			
	<u>07/01/2015 - 06/30/2020</u>	<u>07/01/2020 - 06/30/2021</u>	<u>07/01/2021 - 06/30/2022</u>	<u>07/01/2022 - 06/30/2023</u>
<u>Sole community hospital</u>	<u>1.25</u>	<u>1.5</u>	<u>N/A</u>	<u>1.25</u>
<u>Sole community hospital accepting single bed certifications</u>	<u>N/A</u>	<u>N/A</u>	<u>1.5</u>	<u>1.5</u>

[Statutory Authority: RCW 41.05.021 and chapter 74.60 RCW. WSR 14-14-049, § 182-550-7550, filed 6/25/14, effective 7/26/14.]