

WSR 24-14-039

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed June 26, 2024, 7:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-09-006.

Title of Rule and Other Identifying Information: WAC 182-543-1000
Medical equipment, supplies, and appliances—Definitions.

Hearing Location(s): On August 6, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_IcTK0VXGQXC1K3UtUFFypw. 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: Not sooner than August 7, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning June 27, 2024, 8:00 a.m., by August 6, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunications relay service 711, email Johanna.Larson@hca.wa.gov, by July 19, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending this rule to update medical equipment, supplies, and appliances definitions to better clarify billing and coverage.

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.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504, 360-725-1344; Implementation and Enforcement: Dani Crawford, P.O. Box 42716, Olympia, WA 98504, 360-725-0983.

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(4).

Explanation of exemptions: The rule making is definition additions and corrections. Does not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

June 26, 2024
Wendy Barcus
Rules Coordinator

OTS-5384.1

AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

WAC 182-543-1000 Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC apply to this chapter.

"By-report (BR)" - See WAC 182-500-0015.

"Complex needs patient" - An individual with a diagnosis or medical condition that results in significant physical or functional needs and capacities.

"Complex rehabilitation technology (CRT)" - Wheelchairs and seating systems classified as durable medical equipment within the medicare program that:

(a) Are individually configured for individuals to meet their specific and unique medical, physical, and functional needs and capacities for basic activities as medically necessary to prevent hospitalization or institutionalization of a complex needs patient;

(b) Are primarily used to serve a medical purpose and generally not useful to a person in the absence of an illness or injury; and

(c) Require certain services necessary to allow for appropriate design, configuration, and use of such item, including patient evaluation and equipment fitting.

"Date of delivery" - The date the client actually took physical possession of an item or equipment.

"Digitized speech" (also referred to as devices with whole message speech output) - Words or phrases that have been recorded by an individual other than the speech generating device (SGD) user for playback upon command of the SGD user.

"Disposable supplies" - Supplies which (~~may be used once, or more than once, but are time limited~~) are designed as single-use products to be discarded after initial use.

"EPSDT" - See WAC 182-500-0030.

"Expedited prior authorization (EPA)" - See WAC 182-500-0030.

"Fee-for-service (FFS)" - See WAC 182-500-0035.

"Health care common procedure coding system (HCPCS)" - A coding system established by the Health Care Financing Administration (HCFA) to define services and procedures. HCFA is now known as the Centers for Medicare and Medicaid Services (CMS).

"Home" - For the purposes of this chapter, means location, other than hospital or skilled nursing facility where the client resides and receives care.

"House wheelchair" - A skilled nursing facility wheelchair that is included in the skilled nursing facility's per-patient-day rate under chapter 74.46 RCW.

"Individually configured" - A device has a combination of features, adjustments, or modifications specific to a complex needs patient that a qualified complex rehabilitation technology supplier provides by measuring, fitting, programming, adjusting, or adapting the device as appropriate so that the device is consistent with an assessment or evaluation of the complex needs patient by a health care professional and consistent with the complex needs patient's medical condition, physical and functional needs and capacities, body size, period of need, and intended use.

"Manual wheelchair" - See "Wheelchair - Manual."

"Medical equipment" - Includes medical equipment and appliances, and medical supplies.

"Medical equipment and appliances" - Health care-related items that:

- (a) Are primarily and customarily used to serve a medical purpose;
- (b) Generally, are not useful to a person in the absence of a disability, illness, or injury;
- (c) Can withstand repeated use;
- (d) Can be reusable or removable; and
- (e) Are suitable for use in any setting where normal life activities take place.

"Medical supplies" - Health care-related items that are:

- (a) Consumable or disposable or cannot withstand repeated use by more than one person;
- (b) Required to address an individual medical disability, illness, or injury;
- (c) Suitable for use in any setting which is not a medical institution and in which normal life activities take place; and
- (d) Generally not useful to a person in the absence of illness or injury.

"Medically necessary" - See WAC 182-500-0070.

"National provider indicator (NPI)" - See WAC 182-500-0075.

"Orthotic device" or **"orthotic"** - A corrective or supportive device that:

- (a) Prevents or corrects physical deformity or malfunction; or
- (b) Supports a weak or deformed portion of the body.

"Power-drive wheelchair" - See "Wheelchair - Power."

"Pricing cluster" - A group of manufacturers' list prices for brands/models of medical equipment that the agency considers when calculating the reimbursement rate for a procedure code that does not have a fee established by medicare.

"Prior authorization" - See WAC 182-500-0085.

"Prosthetic device" or **"prosthetic"** - See WAC 182-500-0085.

"Qualified complex rehabilitation technology supplier" - A company or entity that:

- (a) Is accredited by a recognized accrediting organization as a supplier of CRT;
- (b) Meets the supplier and quality standards established for durable medical equipment suppliers under the medicare program;
- (c) For each site that it operates, employs at least one CRT professional, certified by the rehabilitation engineering and assistive technology society of North America as an assistive technology professional, to analyze the needs and capacities of clients, and provide training in the use of the selected covered CRT items;
- (d) Has the CRT professional physically present for the evaluation and determination of the appropriate individually configured CRT for the complex needs patient;
- (e) Provides service and repairs by qualified technicians for all CRT products it sells; and
- (f) Provides written information to the complex needs patient at the time of delivery about how the individual may receive service and repair of the delivered CRT.

"Resource-based relative value scale (RBRVS)" - A scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

"Reusable supplies" - Supplies which are (~~to be used more than once~~) designed and intended for repeated use.

"Safety enclosure frame/canopy" - A passive bed enclosure that provides a solid framework and a soft canopy structure, which securely attaches to the bed. The enclosure provides access to the client through openings, allowing the caregiver the ability to provide routine care to the client. It is an integral part of, or accessory to, a hospital bed.

"Scooter" - A federally approved, motor-powered vehicle that:

- (a) Has a seat on a long platform;
- (b) Moves on either three or four wheels;
- (c) Is controlled by a steering handle; and
- (d) Can be independently driven by a client.

"Specialty bed" - A hospital bed used primarily in the treatment of individuals with a disability, illness, or injury, that has a pressure reducing or relieving support surface, or both, such as foam, air, water, or gel mattress or overlay.

"Speech generating device (SGD)" - An electronic device or system that compensates for the loss or impairment of a speech function due to a congenital condition, an acquired disability, or a progressive neurological disease. The term includes only that equipment used for the purpose of communication. Formerly known as "augmentative communication device (ACD)."

"Synthesized speech" - Is a technology that translates a user's input into device-generated speech using algorithms representing linguistic rules, unlike prerecorded messages of digitized speech. A SGD that has synthesized speech is not limited to prerecorded messages but rather can independently create messages as communication needs dictate.

"Three- or four-wheeled scooter" - A three- or four-wheeled vehicle meeting the definition of scooter (see "scooter") and which has the following minimum features:

- (a) Rear drive;
- (b) A (~~twenty-four~~) 24 volt system;
- (c) Electronic or dynamic braking;
- (d) A high to low speed setting; and
- (e) Tires designed for indoor/outdoor use.

"Trendelenburg position" - A position in which the patient is lying on his or her back on a plane inclined (~~thirty to forty~~) 30 to 40 degrees. This position makes the pelvis higher than the head, with the knees flexed and the legs and feet hanging down over the edge of the plane.

"Usual and customary charge" - See WAC 182-500-0110.

"Warranty-period" - A guarantee or assurance, according to manufacturers' or provider's guidelines, of set duration from the date of purchase.

"Wheelchair - Manual" - A federally approved, nonmotorized wheelchair that is capable of being independently propelled and fits one of the following categories:

- (a) Standard:
 - (i) Usually is not capable of being modified;
 - (ii) Accommodates a person weighing up to (~~two hundred fifty~~) 250 pounds; and
 - (iii) Has a warranty period of at least one year.
- (b) Lightweight:
 - (i) Composed of lightweight materials;
 - (ii) Capable of being modified;

- (iii) Accommodates a person weighing up to (~~two hundred fifty~~) 250 pounds; and
 - (iv) Usually has a warranty period of at least three years.
 - (c) High-strength lightweight:
 - (i) Is usually made of a composite material;
 - (ii) Is capable of being modified;
 - (iii) Accommodates a person weighing up to (~~two hundred fifty~~) 250 pounds;
 - (iv) Has an extended warranty period of over three years; and
 - (v) Accommodates the very active person.
 - (d) Hemi:
 - (i) Has a seat-to-floor height lower than (~~eighteen~~) 18 inches to enable an adult to propel the wheelchair with one or both feet; and
 - (ii) Is identified by its manufacturer as "Hemi" type with specific model numbers that include the "Hemi" description.
 - (e) Pediatric: Has a narrower seat and shorter depth more suited to pediatric patients, usually adaptable to modifications for a growing child.
 - (f) Recliner: Has an adjustable, reclining back to facilitate weight shifts and provide support to the upper body and head.
 - (g) Tilt-in-space: Has a positioning system, which allows both the seat and back to tilt to a specified angle to reduce shear or allow for unassisted pressure releases.
 - (h) Heavy duty:
 - (i) Specifically manufactured to support a person weighing up to (~~three hundred~~) 300 pounds; or
 - (ii) Accommodating a seat width of up to (~~twenty-two~~) 22 inches wide (not to be confused with custom manufactured wheelchairs).
 - (i) Rigid: Is of ultra-lightweight material with a rigid (nonfolding) frame.
 - (j) Custom heavy duty:
 - (i) Specifically manufactured to support a person weighing over (~~three hundred~~) 300 pounds; or
 - (ii) Accommodates a seat width of over (~~twenty-two~~) 22 inches wide (not to be confused with custom manufactured wheelchairs).
 - (k) Custom manufactured specially built:
 - (i) Ordered for a specific client from custom measurements; and
 - (ii) Is assembled primarily at the manufacturer's factory.
- "Wheelchair - Power"** - A federally approved, motorized wheelchair that can be independently driven by a client and fits one of the following categories:
- (a) Custom power adaptable to:
 - (i) Alternative driving controls; and
 - (ii) Power recline and tilt-in-space systems.
 - (b) Noncustom power: Does not need special positioning or controls and has a standard frame.
 - (c) Pediatric: Has a narrower seat and shorter depth that is more suited to pediatric patients. Pediatric wheelchairs are usually adaptable to modifications for a growing child.