

## WSR 22-01-132

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed December 13, 2021, 5:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-20-063.

Title of Rule and Other Identifying Information: WAC 182-551-2000 General, 182-551-2010 Definitions, 182-551-2115 Covered medical social services, and 182-551-2130 Noncovered services.

Hearing Location(s): On January 25, 2022, at 10:00 a.m. The health care authority (HCA) remains closed in response to the coronavirus disease 2019 (COVID-19) public health emergency. Until further notice, HCA continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of Washington state residents. To attend the virtual public hearing, you must register in advance [https://zoom.us/webinar/register/WN\\_\\_vMMTnCNS5mu-Qn3-CoICQ](https://zoom.us/webinar/register/WN__vMMTnCNS5mu-Qn3-CoICQ). After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than January 26, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by January 25, 2022.

Assistance for Persons with Disabilities: Contact HCA rules coordinator, phone 360-725-1306, fax 360-586-9727, telecommunication[s] relay service 711, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), by January 14, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2021-2023 operating budget included a proviso (section 211(65), chapter 334, Laws of 2021, specifying that certain appropriated funds are provided to reimburse social workers as part of the medical assistance home health benefit. The agency is amending home health rules in chapter 182-551 WAC, subchapter II, to include medical social services within the home health program.

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; section 211(65), chapter 334, Laws of 2021.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Cynthia Rivers, P.O. Box 45502, Olympia, WA 98504-5502, 360-725-5282.

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.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule adds medical social services as a

client benefit within the home health services program and does not impose any costs on businesses.

December 13, 2021  
Wendy Barcus  
Rules Coordinator

## OTS-3409.2

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2000 General.** (1) The purpose of the medicaid agency's home health program is to reduce the costs of health care services by providing equally effective, less restrictive quality care to the client in any setting where normal life activities take place, subject to the restrictions and limitations in subchapter II.

(2) A client does not have to be homebound or need nursing or therapy services to receive services under this chapter.

(3) Home health skilled services are provided for acute, intermittent, short-term, and intensive courses of treatment. See chapters 182-514 and 388-71 WAC for programs administered to clients who need chronic, long-term maintenance care.

(4) Home health services include the following services and items:

(a) Nursing service, see WAC 182-551-2100;

(b) Home health aide service, see WAC 182-551-2120;

(c) Medical supplies, equipment, and appliances suitable for use in any setting where normal life activities take place, see chapter 182-543 WAC; ~~((and))~~

(d) Physical therapy, occupational therapy, or speech therapy, see WAC 182-551-2110, and audiology services, see WAC 182-531-0375; and

(e) Medical social services, see WAC 182-551-2115.

(5) The agency evaluates medical equipment requests for medical necessity according to WAC 182-501-0165.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2000, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-03-035, § 182-551-2000, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2000, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2000, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2000, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2000, filed 8/2/99, effective 9/2/99.]

AMENDATORY SECTION (Amending WSR 21-23-044, filed 11/9/21, effective 12/10/21)

**WAC 182-551-2010 Definitions.** The following definitions and abbreviations and those found in chapter 182-500 WAC apply to subchapter II:

**"Acute care"** means care provided by a home health agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent intervention by a registered nurse or licensed therapist.

**"Authorized practitioner"** means:

(a) A physician, nurse practitioner, clinical nurse specialist, or physician assistant who may order and conduct home health services, including face-to-face encounter services; or

(b) A certified nurse midwife under 42 C.F.R. 440.70 when furnished by a home health agency that meets the conditions of participation for medicare who may conduct home health services, including face-to-face encounter services.

**"Brief skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs only one of the following activities during a visit to a client:

- (a) An injection;
- (b) Blood draw; or
- (c) Placement of medications in containers.

**"Chronic care"** means long-term care for medically stable clients.

**"Full skilled nursing visit"** means a registered nurse, or a licensed practical nurse under the supervision of a registered nurse, performs one or more of the following activities during a visit to a client:

- (a) Observation;
- (b) Assessment;
- (c) Treatment;
- (d) Teaching;
- (e) Training;
- (f) Management; and
- (g) Evaluation.

**"Home health agency"** means an agency or organization certified under medicare to provide comprehensive health care on an intermittent or part-time basis to a patient in any setting where the patient's normal life activities takeplace.

**"Home health aide"** means a person registered or certified as a nursing assistant under chapter 18.88 RCW who, under the direction and supervision of a registered nurse or licensed therapist, assists in the delivery of nursing or therapy related activities, or both.

**"Home health aide services"** means services provided by a home health aide only when a client has an acute, intermittent, short-term need for the services of a registered nurse, physical therapist, occupational therapist, or speech therapist who is employed by or under contract with a home health agency. These services are provided under the supervision of the previously identified authorized practitioners and include, but are not limited to, ambulation and exercise, assistance with self-administered medications, reporting changes in a client's condition and needs, and completing appropriate records.

**"Home health skilled services"** means skilled health care (nursing, specialized therapy, and home health aide) services provided on an intermittent or part-time basis by a medicare-certified home health

agency with a current provider number in any setting where the client's normal life activities take place. See also WAC 182-551-2000.

**"Long-term care"** is a generic term referring to various programs and services, including services provided in home and community settings, administered directly or through contract by the department of social and health services' (DSHS) division of developmental disabilities (DDD) or aging and long-term support administration (AL TSA) through home and community services (HCS).

**"Medical social services"** are services delivered by a medical social worker that are intended to resolve social or emotional problems that are expected to be an impediment to the effective treatment of the client's medical condition or rate of recovery. Medical social services include assessment of the social and emotional factors related to the client's illness, need for care, response to treatment, and adjustment to care; evaluation of the client's home situation, financial resources, and availability of community resources; assistance in obtaining available community resources and financial resources; and counseling the client and family to address emotional issues related to the illness.

**"Medical social worker"** has the same meaning given for "social worker" in WAC 246-335-510.

**"Plan of care (POC)"** (also known as **"plan of treatment (POT)"**) means a written plan of care that is established and periodically reviewed and signed by both an authorized practitioner and a home health agency provider. The plan describes the home health care to be provided in any setting where the client's normal life activities take place. See WAC 182-551-2210.

**"Review period"** means the three-month period the medicaid agency assigns to a home health agency, based on the address of the agency's main office, during which the medicaid agency reviews all claims submitted by that home health agency.

**"Specialized therapy"** means skilled therapy services provided to clients that include:

- (a) Physical;
- (b) Occupational; or
- (c) Speech/audiology services.

(See WAC 182-551-2110.)

**"Telemedicine"** - For the purposes of WAC 182-551-2000 through 182-551-2220, means the use of telemonitoring to enhance the delivery of certain home health skilled nursing services through:

- (a) The collection and transmission of clinical data between a patient at a distant location and the home health provider through electronic processing technologies. Objective clinical data that may be transmitted includes, but is not limited to, weight, blood pressure, pulse, respirations, blood glucose, and pulse oximetry; or
- (b) The provision of certain education related to health care services using audio, video, or data communication instead of a face-to-face visit.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-23-044, § 182-551-2010, filed 11/9/21, effective 12/10/21. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2010, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-03-035, § 182-551-2010, filed 1/12/16, effective 2/12/16. WSR 11-14-075, recodified as § 182-551-2010, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, §

388-551-2010, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2010, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2010, filed 8/2/99, effective 9/2/99.]

#### NEW SECTION

**WAC 182-551-2115 Covered medical social services.** (1) Subject to funding appropriated by the legislature, the medicaid agency covers medical social services, as defined in WAC 182-551-2010, provided by a home health agency in any setting where normal life activities take place.

(2) The medicaid agency pays for one encounter per 12-month period up to eight 15-minute units per encounter. The medicaid agency pays for additional services with prior authorization on a case-by-case basis when medically necessary.

[ ]

AMENDATORY SECTION (Amending WSR 18-24-023, filed 11/27/18, effective 1/1/19)

**WAC 182-551-2130 Noncovered services.** (1) The medicaid agency does not cover the following home health services under the home health program, unless otherwise specified:

(a) Chronic long-term care skilled nursing visits or specialized therapy visits for a medically stable client when a long-term care skilled nursing plan or specialized therapy plan is in place through the department of social and health services' aging and long-term support administration (ALTSA).

(i) The medicaid agency considers requests for interim chronic long-term care skilled nursing services or specialized therapy services for a client while the client is waiting for ALTSA to implement a long-term care skilled nursing plan or specialized therapy plan; and

(ii) On a case-by-case basis, the medicaid agency may authorize long-term care skilled nursing visits or specialized therapy visits for a client for a limited time until a long-term care skilled nursing plan or specialized therapy plan is in place. Any services authorized are subject to the provisions in this section and other applicable published WAC.

(b) Social work services that are not "medical social services" as defined in WAC 182-551-2010.

(c) Psychiatric skilled nursing services.

(d) Pre- and postnatal skilled nursing services, except as listed under WAC 182-551-2100 (2) (e).

(e) Well-baby follow-up care.

(f) Services performed in hospitals, correctional facilities, skilled nursing facilities, or a residential facility with skilled nursing services available.

(g) Health care for a medically stable client (e.g., one who does not have an acute episode, a disease exacerbation, or treatment change).

(h) Home health specialized therapies and home health aide visits for clients that are covered under the AEM categorically needy and medically needy programs and are in the following programs:

- (i) Categorically needy - Emergency medical only; and
- (ii) Medically needy - Emergency medical only.

(i) Skilled nursing visits for a client when a home health agency cannot safely meet the medical needs of that client within home health services program limitations (e.g., for a client to receive infusion therapy services, the caregiver must be willing and capable of managing the client's care).

(j) More than one of the same type of specialized therapy and home health aide visit per day.

(k) The medicaid agency does not pay for duplicate services for any specialized therapy for the same client when both providers are performing the same or similar procedure or procedures.

(1) Home health visits made without a written physician's order, unless the verbal order is:

- (i) Documented before the visit; and

(ii) The document is signed by the ordering physician within forty-five days of the order being given.

(2) The medicaid agency does not cover additional administrative costs billed above the visit rate (these costs are included in the visit rate and will not be paid separately).

(3) The medicaid agency evaluates a request for any service that is listed as noncovered under WAC 182-501-0160.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. Section 440.70. WSR 18-24-023, § 182-551-2130, filed 11/27/18, effective 1/1/19. Statutory Authority: RCW 41.05.021, 41.05.160. WSR 16-03-035, § 182-551-2130, filed 1/12/16, effective 2/12/16. WSR 11-14-075, redefined as § 182-551-2130, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, chapter 74.09 RCW, and 2009 c 326. WSR 10-10-087, § 388-551-2130, filed 5/3/10, effective 6/3/10. Statutory Authority: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700. WSR 06-24-036, § 388-551-2130, filed 11/30/06, effective 1/1/07. Statutory Authority: RCW 74.08.090, 74.09.520, 74.09.530, and 74.09.500. WSR 02-15-082, § 388-551-2130, filed 7/15/02, effective 8/15/02. Statutory Authority: RCW 74.08.090 and 74.09.530. WSR 99-16-069, § 388-551-2130, filed 8/2/99, effective 9/2/99.]