

WSR 22-13-134

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed June 17, 2022, 4:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-10-045.

Title of Rule and Other Identifying Information: WAC 182-554-400
Enteral nutrition—Provider requirements.

Hearing Location(s): On July 26, 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_okdBeytITLCb2dmAjbv3rBA. 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 July 27, 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 July 26, 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 July 8, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending these rules to add an additional section to clarify overlap in dates of service for the processing of claims for refills prior to the client exhausting their supply.

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.

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: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Erin Mayo, P.O. Box 55081, Olympia, WA 98504-5081, 360-725-1729.

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. The proposed filing does not impose a disproportionate cost impact on small businesses.

June 17, 2022
Wendy Barcus
Rules Coordinator

OTS-3859.1

AMENDATORY SECTION (Amending WSR 17-08-009, filed 3/24/17, effective 5/1/17)

WAC 182-554-400 Enteral nutrition—Provider requirements. (1)

The following providers are eligible to enroll or contract with the medicaid agency to provide orally administered and tube-delivered enteral nutrition products, equipment, and related supplies:

- (a) A pharmacy provider; or
- (b) A durable medical equipment provider.

(2) To receive payment for orally administered or tube-delivered enteral nutrition products, equipment and related supplies, a provider must:

- (a) Meet the requirements under chapters 182-501 and 182-502 WAC.
- (b) Provide only those services that are within the scope of the provider's license.
- (c) Obtain prior authorization from the agency, if required, before delivery to the client and before billing the agency.
- (d) Deliver enteral nutritional products in quantities sufficient to meet the client's authorized needs, not to exceed a one-month supply.

(e) Confirm with the client or the client's caregiver that the next month's delivery of authorized orally administered enteral nutrition products is necessary and document the confirmation in the client's file. The agency does not pay for automatic periodic delivery of products.

(f) Furnish clients with new or used equipment that includes full manufacturer and dealer warranties for at least one year.

(g) Notify the client's primary care provider if the client has indicated the enteral nutrition product is not being used as prescribed and document the notification in the client's file.

(h) Have a valid prescription. To be valid, a prescription must be:

(i) Written, dated and signed (including the prescriber's credentials) by the prescriber on or before the date of delivery of the product, equipment or related supplies;

(ii) No older than one year from the date the prescriber signed the prescription; and

(iii) State the specific item or service requested, the client's diagnosis and estimated length of need, quantity and units of measure, frequency and directions for use.

(i) Have proof of delivery.

(i) When a client or the client's authorized representative receives the product directly from the provider, the provider must furnish the proof of delivery upon agency request. The proof of delivery must:

(A) Be signed and dated by the client or the client's authorized representative. The date of the signature must be the date the item was received by the client; and

(B) Include the client's name and a detailed description of the item(s) delivered, including the quantity and brand name.

(ii) When a provider uses a shipping service to deliver items, the provider must furnish proof of delivery upon agency request. The proof of delivery must include:

- (A) The client's name or other client identifier;
 - (B) The delivery service package identification number;
 - (C) The delivery address; and
 - (D) The quantity, a detailed description, and brand name of the item being shipped.
- (j) Bill the agency (~~with~~) in accordance with agency rules and billing instructions using one of the following dates of service:
- (i) If the provider used a shipping service, the provider must use the shipping date as the date of service; or
 - (ii) If the client or the client's authorized representative received the product directly from the provider, the provider must use the date of receipt as the date of service.
- (k) The agency allows up to a 10-day overlap in dates of service for the processing of claims for refills delivered/shipped prior to the client exhausting their supply.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-08-009, § 182-554-400, filed 3/24/17, effective 5/1/17. WSR 11-14-075, recodified as § 182-554-400, filed 6/30/11, effective 7/1/11. Statutory Authority: 2009 c 564 § 1109, RCW 74.04.050, and 74.08.090. WSR 10-01-138, § 388-554-400, filed 12/21/09, effective 1/21/10. Statutory Authority: RCW 74.08.090, 74.09.530 and chapter 74.09 RCW. WSR 05-04-059, § 388-554-400, filed 1/28/05, effective 3/1/05.]