

## WSR 22-21-134

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed October 19, 2022, 8:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-18-083.

Title of Rule and Other Identifying Information: WAC 182-550-4670  
CPE payment program—"Hold harmless" provision.

Hearing Location(s): On November 22, 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\\_-9eo-iITQK2pYK6RhvScg](https://us02web.zoom.us/webinar/register/WN_-9eo-iITQK2pYK6RhvScg). 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 November 23, 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 November 22, 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](mailto:johanna.larson@hca.wa.gov), by November 10, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-550-4670(4) to include the federal portion of medicaid program supplemental payments received by hospitals.

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; ESSB 5693, section 211(21), chapter 297, Laws of 2022.

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

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: Jessica Carrothers, P.O. Box 45506, Olympia, WA 98504-5506, 360-725-2130.

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.

Explanation of exemptions: The rule amendment is necessary to comply with ESSB 5693, section 211(21), chapter 297, Laws of 2022.

Scope of exemption for rule proposal:

Is fully exempt.

October 19, 2022  
Wendy Barcus  
Rules Coordinator

OTS-4099.1

AMENDATORY SECTION (Amending WSR 15-11-009, filed 5/7/15, effective 6/7/15)

**WAC 182-550-4670 CPE payment program—"Hold harmless" provision.**

To meet legislative requirements, the medicaid agency includes a "hold harmless" provision for eligible hospitals participating in certified public expenditure (CPE) payment programs under WAC 182-550-4650 and 182-550-5400. Under the provision and subject to legislative directives and appropriations, hospitals eligible for payments under CPE payment programs will receive no less in combined state and federal payments than they would have received under the methodologies otherwise in effect as described in this section. All hospital submissions pertaining to CPE payment programs ((~~r~~)) including, but not limited to, cost report schedules, are subject to audit at any time by the agency or its designee.

(1) The agency:

(a) Uses historical cost and payment data trended forward to calculate prospective hold harmless grant payment amounts for the current state fiscal year (SFY); and

(b) Reconciles these hold harmless grant payment amounts when the actual claims data are available for the current fiscal year.

(2) For SFYs 2006 through 2009, the agency calculates what the hospital would have been paid under the methodologies otherwise in effect for the SFY as the sum of:

(a) The total payments for inpatient claims for patients admitted during the fiscal year, calculated by repricing the claims using:

(i) For SFYs 2006 and 2007, the inpatient payment method in effect during SFY 2005; or

(ii) For SFYs 2008 and 2009, the payment method that would otherwise be in effect during the CPE payment program year if the CPE payment program had not been enacted.

(b) The total net disproportionate share hospital and state grant payments paid for SFY 2005.

(3) For SFY 2010 and beyond, the agency calculates what the hospital would have been paid under the methodologies otherwise in effect for the SFY as the sum of:

(a) The total of the inpatient claim payment amounts that would have been paid during the SFY had the hospital not been in the CPE payment program;

(b) One-half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during SFY 2005; and

(c) All of the other disproportionate share hospital payment amounts paid to and retained by each hospital during SFY 2005 to the extent the same disproportionate share hospital programs exist in the 2009-2011 biennium.

(4) For each SFY, the agency determines total state and federal payments made under the programs, including:

(a) Inpatient claim payments;

(b) Disproportionate share hospital (DSH) payments; (~~and~~)

(c) Supplemental upper payment limit payments, as applicable; and

(d) The federal portion of medicaid program supplemental payments received by the hospitals.

(5) A hospital may receive a hold harmless grant, subject to legislative directives and appropriations, when the following calculation results in a positive number:

(a) For SFY 2006 through SFY 2009, the amount derived in subsection (4) of this section is subtracted from the amount derived in subsection (2) of this section; or

(b) For SFY 2010 and beyond, the amount derived in subsection (4) of this section is subtracted from the amount derived in subsection (3) of this section.

(6) The agency calculates interim hold harmless and final hold harmless grant amounts as follows:

(a) An interim hold harmless grant amount is calculated approximately ten months after the end of the SFY to include the paid claims for the same SFY admissions. Claims are subject to utilization review prior to the interim hold harmless calculation. Prospective grant payments made under subsection (1) of this section are deducted from the calculated interim hold harmless grant amount to determine the net grant payment amount due to or due from the hospital.

(b) The final hold harmless grant amount is calculated at such time as the final allowable federal portions of program payments are determined. The procedure is the same as the interim grant calculation, but it includes all additional claims that have been paid or adjusted since the interim hold harmless calculation. Claims are subject to utilization review and audit prior to the final calculation of the hold harmless amount. Interim grant payments determined under (a) of this subsection are deducted from this final calculation to determine the net final hold harmless amount due to or due from the hospital.

[Statutory Authority: RCW 41.05.021, 41.05.160, and 74.09.5225(3). WSR 15-11-009, § 182-550-4670, filed 5/7/15, effective 6/7/15. WSR 11-14-075, recodified as § 182-550-4670, filed 6/30/11, effective 7/1/11. Statutory Authority: 2009 c 564 §§ 201 and 209, RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500. WSR 10-11-032, § 388-550-4670, filed 5/11/10, effective 6/11/10. Statutory Authority: RCW 74.08.090 and 74.09.500. WSR 08-20-032, § 388-550-4670, filed 9/22/08, effective 10/23/08; WSR 07-14-090, § 388-550-4670, filed 6/29/07, effective 8/1/07. Statutory Authority: RCW 74.08.090, 74.09.500, and 2005 c 518 § 209(9). WSR 06-11-100, § 388-550-4670, filed 5/17/06, effective 6/17/06.]