



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Health Care Authority, Washington Apple Health

- Preproposal Statement of Inquiry was filed as WSR 14-22-032; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

Title of rule and other identifying information:

Chapter 182-537 WAC – School-based health care services

Hearing location:

Health Care Authority
Cherry Street Plaza Building; Sue Crystal Conf Rm 106A
626 - 8th Avenue, Olympia WA 98504

Metered public parking is available street side around building. A map is available at:
http://www.hca.wa.gov/documents/directions_to_csp.pdf
or directions can be obtained by calling: (360) 725-1000

Date: **March 8, 2016** Time: **10:00 a.m.**

Date of intended adoption: Not sooner than March 9, 2016
(Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator
Address: PO Box 45504, Olympia WA, 98504-5504
Delivery: 626 – 8th Avenue, Olympia WA 98504
e-mail arc@hca.wa.gov
fax (360) 586-9727

by **5:00 pm on March 8, 2016**

Assistance for persons with disabilities: Contact Amber Loughheed by March 4, 2016
e-mail: amber.loughheed@hca.wa.gov or (360) 725-1349
TTY (800) 848-5429 or 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The agency is amending this chapter to allow coverage for individuals covered under IDEA Part C, allow the use of electronic signatures, and to clarify language.

Reasons supporting proposal: ESSB 5810

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 41.05.021, 41.05.160, ESSB 5810

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE
January 25, 2016

NAME
Wendy Barcus

SIGNATURE

TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

DATE: January 25, 2016

TIME: 11:42 AM

WSR 16-04-028

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: N/A

Name of proponent: Health Care Authority

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Chantelle Diaz	PO Box 42716, Olympia WA, 98504-2716	(360) 725-1842
Implementation....Shanna Muirhead	PO Box 45530, Olympia WA, 98504-5530	(360) 725-1153
Enforcement.....Shanna Muirhead	PO Box 45530, Olympia WA, 98504-5530	(360) 725-1153

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

No. Explain why no statement was prepared.

The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

No: Please explain:

RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Chapter 182-537 WAC
SCHOOL-BASED HEALTH CARE SERVICES

AMENDATORY SECTION (Amending WSR 13-05-017, filed 2/7/13, effective 3/10/13)

WAC 182-537-0100 (~~(School-based health care services for children in special education)~~) **Purpose.** The medicaid agency pays school districts for school-based health care services provided to medicaid-eligible children (~~(in)~~) who require special education services consistent with Sections ~~((1905(e)))~~ 1903(c) and 1905(a) of the Social Security Act. Covered services must:

(1) Identify, treat, and manage the education-related disabilities (i.e., mental, emotional, and physical) of a child (~~(in)~~) who requires special education services;

(2) Be prescribed or recommended by licensed physicians or other licensed health care providers within their scope of practice under state law;

(3) Be medically necessary;

(4) Be diagnostic, evaluative, habilitative, or rehabilitative in nature; (~~and~~)

(5) Be included in the child's current individualized education program (IEP) or individualized family service plan (IFSP); and

(6) Be provided in a school setting.

AMENDATORY SECTION (Amending WSR 13-21-079, filed 10/17/13, effective 11/17/13)

WAC 182-537-0200 (~~(School-based health care services for children in special education)~~) **Definitions.** The following definitions and those found in chapter 182-500 WAC apply to this chapter:

"Agency" - See WAC 182-500-0010.

~~(("Amount, duration, and scope" - A written statement within the individualized education program (IEP) that addresses sufficiency of services to achieve a particular goal (a treatment plan for how much of a health care related service will be provided, how long a service will be provided, and what the service is).))~~

"Assessment" - For purposes of this chapter an assessment is made-up of medically necessary tests given to an individual child by a licensed professional to evaluate whether a child is determined to be a child with a disability, and in need of special education and related services. Assessments are a part of the evaluation and re-evaluation processes and must accompany the individualized education program (IEP) or individualized family service plan (IFSP).

"Child with a disability" - For purposes of this chapter, a child with a disability is a child evaluated and determined to need special education and related services because of a disability in one or more of the following eligibility categories:

- Autism;

- ((Deaf/blindness)) Deaf-blindness;
- Developmental delay for children ages three through nine, with an adverse educational impact, the results of which require special education and related direct services;
 - Hearing loss (including deafness);
 - Intellectual disability;
 - Multiple disabilities;
 - Orthopedic impairment;
 - Other health impairment;
 - Serious emotional disturbance (emotional behavioral disturbance);
 - Specific learning disability;
 - Speech or language impairment;
 - Traumatic brain injury; and
 - Visual impairment (including blindness).

~~((**"Core provider agreement"**—The basic contract the agency holds with providers serving medical assistance clients.~~

~~**"Direct health care related services"**—Services provided directly to a child either one on one or in a group setting. This does not include special education.)~~ **"Electronic signature"** - A signature in electronic form attached to or associated with an electronic record including, but not limited to, a digital signature.

"Evaluation" - Procedures used to determine whether a child has a disability, and the nature and extent of the special education and related services ((are)) needed. (See WAC ((392-172A-03005 through 392-172A-03080)) 392-172A-01070.)

~~((**"Face-to-face supervision"** or **"direct supervision"**—Supervision that is conducted on site, in view, by an experienced licensed health care professional to assist the supervisee to develop the knowledge and skills to practice effectively, including administering the treatment plan.))~~ **"Evaluation report"** - See WAC 392-172A-03035.

"Fee-for-service" - See WAC 182-500-0035.

"Handwritten signature" - A scripted name or legal mark of an individual on a document to signify knowledge, approval, acceptance, or responsibility of the document.

"Health care-related services" - Developmental, corrective, and other supportive services required to assist an eligible child to benefit from special education. For the purposes of the school-based health care services program, related services include:

- Audiology;
- Counseling;
- Nursing;
- Occupational therapy;
- Physical therapy;
- Psychological assessments; and
- Speech-language therapy.

~~of an))~~ **"Individualized education program (IEP)"** - A written ((statement of an)) educational program for a child who is age three through twenty and eligible for special education. ((+See)) An IEP is developed, reviewed and revised under WAC 392-172A-03090 through 392-172A-03135. ((+))

"Individualized family service plan (IFSP)" - A plan for providing early intervention services to a child birth through age two, with a disability or developmental delay and the child's family. The IFSP:

- Is based on the evaluation and assessment described in 34 C.F.R. Sec. 303.321;
- Includes the content specified in 34 C.F.R. Sec. 303.344;

• Is implemented as soon as possible after parental consent is obtained for the early intervention services in the IFSP (consistent with 34 C.F.R. Sec. 303.420); and

• Is developed under the IFSP procedures in 34 C.F.R. Secs. 303.342, 303.343, and 303.345.

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

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

~~((**"Plan of care"** or **"treatment plan"**— A written document that outlines the health care related needs of a child in special education. The plan is based on input from the health care professional and written approval from the parent or guardian.~~

~~**"Provider"**— See WAC 182-500-0085.))~~

"Qualified health care provider" - See WAC 182-537-0350.

"Reevaluation" - Procedures used to determine whether a child continues to be in need of special education and related services. (See WAC 392-172A-03015.)

~~((**"Regular consultation"**— Face to face contact between the supervisor and supervisee that occurs no less than once per month.~~

~~**"Revised Code of Washington (RCW)"**— Washington state law.))~~

"School-based health care services program" or "~~((SBS)) SBHS~~" - School-based health care services for infants and toddlers receiving early intervention services and children ((in)) who require special education ((that)) services, which are diagnostic, evaluative, habilitative, and rehabilitative in nature; are based on the child's medical needs; and are included in the child's ~~((individualized education plan +))IEP((+))~~ or IFSP. The agency pays school districts for school-based health care services delivered to medicaid-eligible children ~~((in))~~ who require special education services under Section 1903(c) of the Social Security Act, and to ~~((individuals))~~ people under the Individuals with Disabilities Education Act (IDEA) Part B and Part C.

~~((**"School-based health care services program specialist" or "SBHS specialist"**— An individual identified in the interagency agreement school district reimbursement contract.)) **"Signature log"** - A typed list that verifies a licensed provider's identity by associating each provider's signature with their name, handwritten initials, credentials, license and national provider identification (NPI) numbers.~~

"Special education" - Specially designed instruction, at no cost to the parents, to meet the unique needs of a student eligible for special education, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education. Refer to WAC 392-172A-01175.

~~((**"Washington Administrative Code (WAC)"**— Codified rules of the state of Washington.)) **"Supervision"** - Supervision that is provided by a licensed health care provider either directly or indirectly in order to assist the supervisee in the administration of health care-related services outlined in the IEP or IFSP.~~

"Telemedicine" - See WAC 182-531-1730.

AMENDATORY SECTION (Amending WSR 14-07-042, filed 3/12/14, effective 4/12/14)

WAC 182-537-0300 ~~((School-based health care services for children in special education—))~~**Client eligibility.** Children ~~((in))~~ who

require special education services must be receiving Title XIX Medicaid under a Washington apple health (WAH) categorically needy program (CNP) or WAH medically needy program (MNP) to be eligible for school-based health care services. Eligible children enrolled in a managed care organization (MCO) receive school-based health care services on a fee-for-service basis.

AMENDATORY SECTION (Amending WSR 13-21-079, filed 10/17/13, effective 11/17/13)

WAC 182-537-0350 (~~(School-based health care services for children in special education)~~) **Provider qualifications.** ((The medicaid agency pays school districts to provide certain health care related services (see WAC 182-537-0400). These)) (1) School-based health care services (SBHS) must be delivered by qualified health care providers who are enrolled with the medicaid agency and ((hold a current professional license:

~~(1) Audiology services must be delivered by a licensed audiologist.~~

~~(2) Counseling services must be delivered by:~~

~~(a) A licensed independent social worker (LiCSW);~~

~~(b) A licensed advanced social worker (LiACSW);~~

~~(c) A licensed mental health counselor (LMHC); or~~

~~(d) A licensed mental health counselor associate (LMHCA) under the supervision of a department of health approved licensed supervisor.~~

~~(3) Nursing services must be delivered by:~~

~~(a) A licensed registered nurse (RN);~~

~~(b) A licensed practical nurse (LPN) who is supervised by an RN;~~
or

~~(c) A noncredentialed school employee who is delegated certain limited health care tasks by an RN and is supervised according to professional practice standards (see RCW 18.79.260).~~

~~(4) Occupational therapy services must be delivered by:~~

~~(a) A licensed occupational therapist (OT); or~~

~~(b) A licensed occupational therapist assistant (OTA) who is supervised by a licensed occupational therapist.~~

~~(5) Physical therapy services must be delivered by:~~

~~(a) A licensed physical therapist (PT); or~~

~~(b) A licensed physical therapist assistant (PTA) who is supervised by a licensed physical therapist.~~

~~(6) Psychological services must be delivered by a licensed psychologist.~~

~~(7) Speech therapy services must be delivered by:~~

~~(a) A licensed speech language pathologist (SLP); or~~

~~(b) A speech language pathology assistant (SLPA) who:~~

~~(i) Has graduated from a speech language pathology assistant program at a board approved institution; and~~

~~(ii) Is directly supervised by a speech language pathologist with a current certificate of clinical competence (CCC).~~

~~(8)) who meet state licensure and certification requirements.~~
The following people may provide SBHS:

(a) Audiologists who meet requirements of chapters 246-828 WAC and 18.35 RCW;

(b) Licensed advanced social workers (LiACSW) who meet requirements of chapters 246-809 WAC and 18.225 RCW;

(c) Licensed independent clinical social workers (LiCSW);

(d) Licensed mental health counselors (LMHC) who meet requirements of chapters 246-809 WAC and 18.225 RCW;

(e) Licensed mental health counselor associates (LMHCA) who meet requirements of chapters 246-809 WAC and 18.225 RCW and are under the direction and supervision of a qualified LiACSW, LiCSW, or LMHC;

(f) Licensed registered nurses (RN) who meet requirements of chapters 246-840 WAC and 18.79 RCW;

(g) Licensed practical nurses (LPN) who meet requirements of chapters 246-840 WAC and 18.79 RCW and are under the direction and supervision of a qualified RN;

(h) Noncredentialed school employees who are delegated certain limited health care tasks by an RN and are supervised according to professional practice standards in RCW 18.79.260;

(i) Licensed occupational therapists (OT) who meet requirements of chapters 246-847 WAC and 18.59 RCW;

(j) Licensed occupational therapist assistants (OTA) who meet requirements of chapters 246-847 WAC and 18.59 RCW and are under the direction and supervision of a qualified OT;

(k) Licensed physical therapists (PT) who meet requirements of chapters 246-924 WAC and 18.83 RCW;

(l) Licensed physical therapist assistants (PTA) who meet requirements of chapters 246-915 WAC and 18.74 RCW and are under the direction and supervision of a licensed PT;

(m) Licensed psychologists who meet requirements of chapters 246-924 WAC and 18.83 RCW;

(n) Licensed speech-language pathologists (SLP) who meet requirements of chapters 246-828 WAC and 18.35 RCW; and

(o) Speech-language pathology assistants (SLPA) who meet requirements of chapters 246-828 WAC and 18.35 RCW.

(2) For services provided under the supervision of a (~~physical therapist, occupational therapist or speech language pathologist, nurse, or counselor/social worker~~), the following requirements apply:

(a) The nature, frequency, and length of the supervision must be provided in accordance with professional practice standards, and be sufficient to ensure a) PT, OT, SLP, nurse, counselor, or social worker, the supervising provider must:

(a) Ensure the child receives quality therapy services by providing supervision in accordance with professional practice standards;

(b) ((The supervising therapist must)) See the child face-to-face ((at the beginning of)) when services begin and at least once more during the school year;

(c) ((At a minimum, supervision must be face to face communication between the supervisor and the supervisee once per month. Supervisors are responsible for approving and cosigning)) Approve and co-sign all treatment notes written by the supervisee before submitting claims for payment; and

(d) ((Documentation of)) Record supervisory activities ((must be recorded)) and ((available)) provide the documents to the agency or its designee upon request.

((+9)) (3) The school district must ((assure)) ensure providers meet the professional licensing and certification requirements.

~~((10))~~ (4) The licensing exemptions found in the following regulations do not apply to federal medicaid reimbursement ~~((for the services indicated below))~~:

- (a) Counseling ~~((as found in))~~ under RCW 18.225.030;
- (b) Psychology ~~((as found in))~~ under RCW 18.83.200;
- (c) Social work ~~((as found in))~~ under RCW 18.320.010; and
- (d) Speech therapy ~~((as found in))~~ under RCW 18.35.195.

AMENDATORY SECTION (Amending WSR 13-05-017, filed 2/7/13, effective 3/10/13)

WAC 182-537-0400 ~~((School-based health care services for children in special education))~~ **Covered services.** All services covered under this section may be provided through telemedicine as described in WAC 182-531-1730. Covered services include:

(1) Evaluations when the child is determined to have a disability, and is in need of special education and health care-related services that result in an IEP or IFSP;

(2) ~~((Direct health care))~~ Health care-related services including:

- (a) Audiology;
- (b) Counseling;
- (c) Nursing;
- (d) Occupational therapy;
- (e) Physical therapy;
- (f) Psychological assessments; and
- (g) Speech-language therapy.

(3) Reevaluations, to determine whether a child continues to need special education and health care-related services.

AMENDATORY SECTION (Amending WSR 13-05-017, filed 2/7/13, effective 3/10/13)

WAC 182-537-0500 ~~((School-based health care services for children in special education))~~ **Noncovered services.** Noncovered services include, but are not limited to the following:

- (1) Applied behavior analysis (ABA);
- (2) Attending meetings;
- (3) Charting;
- (4) Equipment preparation;
- (5) Evaluations that do not result in an IEP or IFSP;
- (6) Instructional assistant contact;
- ~~((6))~~ (7) Observation;
- (8) Parent consultation;
- ~~((7))~~ (9) Parent contact;
- ~~((8))~~ (10) Planning;
- ~~((9))~~ (11) Preparing and sending correspondence to parents or other professionals;
- ~~((10))~~ (12) Professional consultation;
- ~~((11))~~ (13) Report writing;

~~((12))~~ (14) Review of records;
~~((13))~~ (15) School district staff accompanying a child ~~((in))~~
who requires special education services to and from school on the bus;
~~((14) Set up;~~
~~(15))~~ (16) Teacher contact;
~~((16) Telehealth;))~~
(17) Test interpretation; and
(18) Travel and transporting(;~~and~~
~~(19) Continuous observation of a child when direct school based~~
~~health care services are not actively provided. The agency pays for~~
~~the act of watching carefully and attentively only if it involves ac-~~
~~tual interventions)).~~

AMENDATORY SECTION (Amending WSR 13-21-079, filed 10/17/13, effective 11/17/13)

WAC 182-537-0600 ~~((School-based health care services for children in special education--))~~**School district requirements for billing and payment.** To receive payment from the medicaid agency for providing school-based health care services (SBHS) to eligible children, a school district must:

- (1) Have a current, signed core provider agreement (CPA) with the agency. ~~((A copy of the CPA must be on-site within the school district.))~~
- (2) Have a current, signed, and executed interagency agreement with the agency. ~~((A copy of the agreement must be on-site within the school district for review as requested.))~~
- (3) Meet the applicable requirements in chapter 182-502 WAC.
- (4) Comply with the agency's current, published ProviderOne billing and resource guide.
- (5) Bill according to the agency's current ~~((, published))~~ school-based health care services ~~((for children in special education medicaid))~~ provider guide, the school-based health care services fee schedule, and the intergovernmental transfer (IGT) process. After a school district ~~((s))~~ receives ~~((their))~~ its invoice from the agency, ~~((they))~~ the district must provide ~~((their))~~ its local match to the agency within one hundred twenty days.
- (6) ~~((Meet the applicable requirements in chapter 182-537 WAC.~~
- ~~(7))~~ Provide only health care-related services identified through a current ~~((individualized education program (-)))~~ IEP ~~((+))~~ or IFSP.
- ~~((8))~~ (7) Use only ~~((licensed))~~ health care professionals ~~((, as described in))~~ qualified under WAC 182-537-0350 ~~((and the school-based care services for children in special education medicaid provider guide)).~~
- (8) Enroll servicing providers under the school district's national provider identifier (NPI) number, and ensure providers have their own NPI number.
- (9) Meet documentation requirements in WAC 182-537-0700.

~~WAC 182-537-0700 ((School-based health care services for children in special education))~~ **School district documentation requirements.** (1) Providers must document ~~((in writing))~~ all school-based health care ((related)) services ((in the manner set out)) (SBHS) as required in this section, WAC 182-502-0020, and the medicaid agency's ~~((program-specific))~~ school-based health care services provider guide.

(2) All required documentation must include the provider's printed name, handwritten or electronic signature, and title. Assistants practicing under WAC 182-537-0350 must have a licensed supervisor co-sign all documents as required by this subsection.

(3) The following documentation must be maintained for each client for a minimum of six years:

- (a) Professional assessment reports;
- (b) Evaluation and reevaluation reports;
- (c) ~~((Individualized education program (()))~~ IEP(()) or IFSP; and
- (d) ~~Treatment notes ((for each date of service that give a clear, comprehensive picture of the care being provided, the response to each intervention, and that include the:~~
~~((i)))~~.

(4) Treatment notes must include the:

- (a) Child's name;
- ~~((ii))~~ (b) Child's ProviderOne client ID;
- ~~((iii))~~ (c) Child's date of birth;
- ~~((iv) Activity and intervention performed;~~
~~((v))~~ (d) Date of service((
~~((vi)))~~, and for each date of service:
 - (A) Time-in;
 - ~~((vii))~~ (B) Time-out;
 - ~~((viii))~~ (C) A procedure code for and description of each service provided;
 - (D) The child's progress related to each service;
 - (E) Number of units billed for the service; and
 - ~~((ix))~~ (F) Whether the treatment described in the note was individual or group therapy.

~~((3) All required documentation must include the provider's handwritten signature, title, and National Provider Identifier (NPI) number.~~

~~(a) Signature by stamp or electronic means is acceptable only if the provider is unable to sign by hand due to a physical disability.~~

~~(b) Assistants practicing under WAC 182-537-0350 must have a supervisor cosign all documents in the manner required by subsection (3) of this section.)~~

(5) The agency accepts electronic records and signatures. Maintaining the records in an electronic format is acceptable only if the original records are available to the agency for program integrity activities for up to six years after the date of service. Each school district is responsible for determining what standards are consistent with state and federal electronic record and signature requirements.

(6) For a signature to be valid, it must be handwritten or electronic. Signature by stamp is acceptable only if the provider is unable to sign by hand due to a physical disability.

(7) School districts must maintain a signature log to support the provider's signature identity.

(8) The signature log must include the provider's:

(a) Printed name;

(b) Handwritten signature;

(c) Initials;

(d) Credentials;

(e) License number; and

(f) National provider identifier (NPI) number.

(9) Each school district must establish policies and procedures to ensure complete, accurate, and authentic records. These policies and procedures must include:

(a) Security provisions to prevent the use of an electronic signature by anyone other than the licensed provider to which the electronic signature belongs;

(b) Procedures that correspond to recognized standards and laws and protect against modifications;

(c) Protection of the privacy and integrity of the documentation;

(d) A list of which documents will be maintained and signed electronically; and

(e) Verification of the signer's identity at the time the signature was generated.

AMENDATORY SECTION (Amending WSR 13-05-017, filed 2/7/13, effective 3/10/13)

~~WAC 182-537-0800 ((School-based health care services for children in special education)) Program ((monitoring/audits)) integrity.~~

~~(1) To ensure compliance with program rules, the medicaid agency conducts program integrity activities under chapter 182-502A WAC.~~

~~(2) School districts must participate in all ((monitoring and auditing)) program integrity activities.~~

~~((2)) (3) School districts are responsible for the accuracy, compliance, ((truthfulness,)) and completeness of all claims submitted for medicaid reimbursement.~~

~~((3) The medicaid agency conducts monitoring activities annually according to chapter 182-502A WAC. The agency conducts a minimum of ten school-based medicaid program reviews annually. During this time frame, the agency:~~

~~(a) Completes a minimum of five record reviews as a desk review;~~

~~(b) Conducts a minimum of five record reviews on-site; and~~

~~(c) Bases the monitoring and auditing activities on usage and payment data from the previous school year.~~

~~(4) The agency conducts audits and recovers any overpayments if a school district is found not in compliance with agency requirements according to RCW 74.09.200, 74.09.220 and 74.09.290, which concern audits and investigations of providers.~~

~~(5) On or before October 31st of each year, school districts must submit to the school-based health care services program manager the following information:~~

~~(a) A provider update Form 12-325, to include all new health care professionals; and~~

~~(b) Copies of all new health care professionals' licenses issued by the Washington state department of health (DOH), and verification of the National provider identifier (NPI) number.)~~