



# PROPOSED RULE MAKING

## CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: June 26, 2024

TIME: 7:19 AM

WSR 24-14-039

Agency: Health Care Authority

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 24-09-006 ; 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); or
- Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject) 182-543-1000 Medical Equipment, Supplies & Appliances - Definitions

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 6, 2024	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place	To attend the virtual public hearing, <a href="https://us02web.zoom.us/webinar/register/WN_ICtK0VXGQXCiK3UtUFFypw">you must register in advance:</a>  <a href="https://us02web.zoom.us/webinar/register/WN_ICtK0VXGQXCiK3UtUFFypw">https://us02web.zoom.us/webinar/register/WN_ICtK0VXGQXCiK3UtUFFypw</a>  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 (Note: This is **NOT** the effective date)

<b>Submit written comments to:</b> Name HCA Rules Coordinator Address PO Box 42716, Olympia WA 98504-2716 Email <a href="mailto:arc@hca.wa.gov">arc@hca.wa.gov</a> Fax 360-586-9727 Other Beginning (date and time) <u>June 27, 2024, 8:00 AM</u> By (date and time) <u>August 6, 2024, by 11:59 PM</u>	<b>Assistance for persons with disabilities:</b> Contact Johanna Larson Phone 360-725-1349 Fax 360-586-9727 TTY Telecommunication Relay Service (TRS): 711 Email <a href="mailto:Johanna.Larson@hca.wa.gov">Johanna.Larson@hca.wa.gov</a> Other By (date) <u>July 19, 2024</u>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending this rule to update medical equipment, supplies, & 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

Is rule necessary because of a:

- Federal Law?  Yes  No
- Federal Court Decision?  Yes  No
- State Court Decision?  Yes  No

If yes, CITATION: N/A

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

**Name of proponent:** (person or organization) Health Care Authority

**Type of proponent:**  Private.  Public.  Governmental.

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting	Valerie Freudenstein	PO Box 42716, Olympia, WA 98504	360-725-1344
Implementation	Dani Crawford	PO Box 42716, Olympia, WA 98504	360-725-0983
Enforcement	Dani Crawford	PO Box 42716, Olympia, WA 98504	360-725-0983

**Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name  
Address  
Phone  
Fax  
TTY  
Email  
Other

**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  
TTY  
Email  
Other

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.

**Regulatory Fairness Act and Small Business Economic Impact Statement**

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- |   |   |
|---|---|
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of how the above exemption(s) applies to the proposed rule: The rulemaking is definition additions and corrections. Does not affect small businesses.

**(2) Scope of exemptions:** *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

**Date:** June 26, 2024

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**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.