



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

**Agency:** Department of Social and Health Services, Health and Recovery Services Administration

- Preproposal Statement of Inquiry was filed as WSR 07-05-011 ; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or
- Proposal is exempt under RCW 34.05.310(4).

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

**Title of rule and other identifying information:** (Describe Subject)

The department is repealing sections in chapter 388-544 WAC and creating a new chapter 388-547 WAC for Hearing Aids Services

**Hearing location(s):**

Office Building 2 - Auditorium  
(DSHS Headquarters)  
1115 Washington  
Olympia, WA 98504  
Public parking at 11th and Jefferson. A map is available at:  
<http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>  
or by calling 360-664-6094.

Date: **March 10, 2009** Time: **10:00 a.m.**

**Submit written comments to:**

Name: DSHS Rules Coordinator  
Address: PO Box 45850, Olympia WA, 98504-5850  
Delivery: 4500 – 10<sup>th</sup> Ave. SE, Lacey, Washington 98503  
E-mail: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
Fax: (360) 664-6185

by  
**5 p.m. on March 10, 2009**

**Assistance for persons with disabilities:** Contact Jennisha Johnson, DSHS Rules Consultant by February 24, 2009

TTY (360) 664-6178 or (360) 664-6094 or  
by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov)

**Date of intended adoption:** Not sooner than March 11, 2009  
(Note: This is **NOT** the effective date)

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

The department is proposing the following changes to the Hearing Aids and Services rules:

- Repeal WAC 388-544-1010, -1100, -1200, -1300, and 1400.
- Create new Chapter 388-547 Hearing Aids and Services;
- Separate criteria for adults and children within the chapter;
- Define adults as twenty-one years of age and older and children as twenty years of age and younger;
- Change the criteria for replacement of ear molds for adults to once a year regardless of whether they are soft or hard;
- Add pocket talkers and similar devices to the noncovered list for adults;
- Remove the prior authorization requirements for bone conduction hearing aids for adults;
- Clarify eligibility requirements by adding the TAKE CHARGE program under the list of clients not eligible;
- Remove the requirement that providers receive a stamped authorization approval from the local children with special health care needs (CSHCN) coordinator;
- Remove digital and programmable hearing aids from the noncovered list;
- Lower the average degree of hearing loss from 50 decibels (dBHL) to 45 decibels (dBHL); and
- Clarify record requirements.

**Reasons supporting proposal:** The intent of these proposed rule changes is to bring the Hearing Aids & Services program in line with current industry standards as much as possible. Also, the department removed the cumbersome and costly prior authorization process for children as requested by its Hearing Aid providers; thus allowing quicker access to hearing aids and services for children. The department also lowered the average degree of hearing loss decibel requirement which expands the availability of hearing aids to a larger population.

**Statutory authority for adoption:**  
RCW 74.08.090, RCW 74.09.530

**Statute being implemented:**  
RCW 74.08.090

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**DATE**  
January 29, 2009

**NAME** (type or print)  
Stephanie Schiller

**SIGNATURE**  
*Stephanie E Schiller*

**TITLE**  
DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: February 04, 2009**  
**TIME: 7:29 AM**

**WSR 09-04-091**

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

None

**Name of proponent:** Department of Social and Health Services

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Wendy Boedigheimer	PO Box 45504, Olympia WA 98504-5504	(360) 725-1306
Implementation.... Jean Gowen	PO Box 45506, Olympia WA 98504-5506	(360) 725-2005
Enforcement..... Jean Gowen	PO Box 45506, Olympia WA 98504-5506	(360) 725-2005

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

Yes. Attach copy of small business economic 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 department has analyzed the rules and determined that no new costs will be imposed on small businesses or non-profit organizations.

**Is a cost-benefit analysis required under RCW 34.05.328?**

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

Name: Jean Gowen

Address: Health and Recovery Services Administration

PO Box 45506

Olympia WA 98504-5506

phone (360) 725-2005

fax (360) 586-9727

e-mail

No: Please explain:

## Chapter 388-547 WAC

### HEARING AIDS

#### NEW SECTION

**WAC 388-547-0100 Hearing aids--General.** Unless otherwise defined in WAC 388-547-0200, the terms within this chapter are intended to correspond with the terms in chapter 18.35 RCW.

(1) The department covers the hearing aid services listed in this chapter, according to department rules and subject to the limitations and requirements in this chapter.

(2) The department pays for hearing aids and services when:

(a) Covered. Refer to WAC 388-547-0400 for covered hearing aids and services for adults; and refer to WAC 388-547-0800 for covered hearing aids and services for children;

(b) Within the scope of an eligible client's medical care program;

(c) Medically necessary as defined under WAC 388-500-0005;

(d) Authorized, as required within this chapter, chapters 388-501 and 388-502 WAC, and the department's published billing instructions and numbered memoranda;

(e) Billed according to this chapter, chapters 388-501 and 388-502, and the department's published billing instructions and numbered memoranda; and

(f) The client:

(i) Completes a hearing evaluation, including an audiogram performed and/or interpreted by a hearing healthcare professional;

(ii) Has an average degree of hearing loss at forty-five decibels (dBHL) in the better ear based on a pure-tone audiometric evaluation by a licensed audiologist or licensed hearing instrument fitter/dispenser at one thousand, two thousand, three thousand, and four thousand Hertz (Hz) with effective masking as indicated; and

(iii) Is referred by a hearing healthcare professional for a hearing aid.

(3) The department requires prior authorization for covered hearing aid services when the clinical criteria set forth in this chapter are not met. The department evaluates these requests on a case-by-case basis to determine whether they are medically necessary, according to the process found in WAC 388-501-0165.

#### NEW SECTION

**WAC 388-547-0200 Hearing aids--Definitions. "Digital hearing aids"** - Hearing aids that use a digital circuit to analyze and process sound.

**"FM systems"** - Devices used to improve and augment access to auditory information in poor acoustic conditions (helps mitigate a negative impact of noise and reverberation on the ability to understand) that are found in classrooms, auditoriums, theaters, restaurants, etc. These devices use frequency modulated (FM) radio signals to transmit the primary auditory signal from a microphone/transmitter to a receiver worn by the person.

**"Hearing aids"** - Wearable sound-amplifying devices that are intended to compensate for hearing loss. Hearing aids are described by where they are worn in the ear as In-the-Ear (ITE), Behind-the-Ear (BTE), etc. Hearing aids can also be described by how they process the amplified signal. This would include analog conventional, analog programmable, digital conventional, and digital programmable.

**"Hearing healthcare professional"** - An audiologist or hearing aid fitter/dispenser licensed under chapter 18.35 RCW, or an otorhinolaryngologist or otologist licensed under chapter 18.71 RCW.

**"Maximum allowable fee"** - The maximum dollar amount that the department will pay a provider for specific services, supplies and equipment.

**"Prior authorization"** - A form of authorization used by the provider to obtain approval for a specific hearing aid and service(s). The approval is based on medical necessity and must be received before the service(s) are provided to clients as a precondition for payment.

#### NEW SECTION

**WAC 388-547-0300 Hearing aids--Eligibility--Adults.** (1) Hearing aid services are available to clients twenty one years of age or older covered under:

(a) A categorically needy (CN) medicaid program; or  
(b) General assistance (GAU/ADATSA) (within Washington state and designated border cities.

(2) Clients who are enrolled in a department-contracted managed care plan are eligible under fee-for-service for covered hearing aid services that are not covered by their plan, subject to the provisions of this chapter and other applicable WAC.

#### NEW SECTION

**WAC 388-547-0400 Hearing aids--Covered services--Adults.** The department covers all of the following without prior authorization:

(1) One new, nonrefurbished, monaural hearing aid, which

includes the ear mold, for an adult client every five years when the hearing aid meets the client's specific hearing needs and is under warranty for a minimum of one year.

(2) One replacement hearing aid, which includes the ear mold, in a five year period when the client's hearing aid(s) is lost or beyond repair and all warranties are expired.

(3) A replacement ear mold once a year when the client's existing ear mold is damaged or no longer fits the client's ear.

(4) A maximum of two repairs, per hearing aid, per year, when the repair is cost effective as determined by the department. To receive payment, all of the following must be met:

(a) All warranties are expired; and

(b) The repair is under warranty for a minimum of ninety days.

(5) Rental hearing aid(s) for up to two months while the client's own hearing aid is being repaired.

#### NEW SECTION

##### **WAC 388-547-0500 Hearing aids--Noncovered services--Adults.**

The department does not cover the following hearing and hearing aid-related items for adults:

(1) Batteries;

(2) Tinnitus maskers;

(3) FM systems; or

(4) Pocket talkers or similar devices.

#### NEW SECTION

##### **WAC 388-547-0600 Hearing aids--Prior authorization--Adults.**

(1) The department requires prior authorization for binaural hearing aids.

(2) The department evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 388-501-0169.

(3) To request prior authorization from the department, a provider must fax the prior authorization request to the department using the appropriate fax number listed in published hearing aid services billing instructions.

(4) When the department authorizes hearing aids and/or services, the prior authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

(5) To receive payment, hearing aids and/or services must be ordered and dispensed within the authorized timeframe.

NEW SECTION

**WAC 388-547-0700 Hearing aids--Eligibility--Children.** (1) Clients twenty years of age and younger who are receiving services under any medical assistance program, except for the family planning only program and the TAKE CHARGE program:

(a) Are eligible for covered hearing aids and services under this chapter and for the audiology services under WAC 388-545-0700;

(b) Must have a complete hearing evaluation, including an audiogram performed by a hearing healthcare professional; and

(c) Must be referred by a licensed audiologist, otorhinolaryngologist or otologist for a hearing aid.

(2) Clients eighteen through twenty years of age must have a referral by a screening provider under the early and periodic screening, diagnosis, and treatment (EPSDT) program.

(3) Clients who are enrolled in a department-contracted managed care plan are eligible under fee-for-service for covered hearing aid services that are not covered by their plan, subject to the provisions of this chapter and other applicable WAC.

NEW SECTION

**WAC 388-547-0800 Hearing aids--Covered services--Children.**

(1) The department covers new, nonrefurbished, monaural or binaural hearing aid(s), which includes the ear mold, for eligible children. In order for the provider to receive payment, the hearing aid must meet the client's specific hearing needs and be under warranty for a minimum of one year.

(2) The department pays for:

(a) Replacement hearing aid(s), which includes the ear mold, for children when:

(i) The client's hearing aid(s) are:

(A) Lost;

(B) Beyond repair; or

(C) Not sufficient for the client's hearing loss; and

(ii) All warranties are expired.

(b) Replacement ear mold(s) when the client's existing ear mold is damaged or no longer fits the client's ear.

(c) A maximum of two repairs, per hearing aid, per year, when the department determines it is cost effective to repair. To receive payment, all of the following must be met:

(i) All warranties are expired; and

(ii) The repair is under warranty for a minimum of ninety days.

(d) A rental hearing aid(s) for up to two months while the client's own hearing aid is being repaired.

NEW SECTION

**WAC 388-547-0900 Hearing aids--Noncovered services--Children.**

(1) The department does not cover the following hearing and hearing aid-related items and services for children:

- (a) Batteries or tinnitus maskers;
- (b) Group screenings for hearing loss, except as provided under the early and periodic screening, diagnosis and treatment (EPSDT) program under WAC 388-534-0100; or
- (c) Computer-aided hearing devices for FM systems used in school.

(2) When EPSDT applies, the department evaluates a noncovered service, equipment, or supply according to the process in WAC 388-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see WAC 388-534-0100 for EPSDT rules).

NEW SECTION

**WAC 388-547-1000 Hearing aids--Prior authorization--Children.**

(1) Prior authorization is not required for children twenty years of age and under for hearing aid(s) and services. Providers should send claims for children directly to the department. Providers do not have to obtain authorization from the local children with special health care needs (CSHCN) coordinator.

(2) The department evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 388-501-0169.

(3) To request prior authorization from the department, a provider must fax the prior authorization request to the department using the appropriate fax number listed in the department's published hearing aid services billing instructions.

(4) When the department authorizes hearing aids and/or services the prior authorization indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

NEW SECTION

**WAC 388-547-1100 Hearing aids--Reimbursement--General. (1)**

The department's payment for hearing aids includes:

- (a) A prefitting evaluation;
  - (b) An ear mold; and
  - (c) A minimum of three post-fitting consultations.
- (2) The department denies payment for hearing aids and/or services when claims are submitted without the required prior authorization number or the appropriate diagnosis or procedure code(s).

(3) The department does not pay for hearing aid charges paid by insurance or other payer source.

(4) To receive payment, the provider must keep documentation in the client's medical file to support the medical necessity for the specific make and model of the hearing aid ordered for the client. This documentation must include the record of the audiology testing providing evidence that the client's hearing loss meets the eligibility criteria for a hearing aid.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-544-1010	Definitions.
WAC 388-544-1100	Hearing aid services--General.
WAC 388-544-1200	Hearing aid services--For adults.
WAC 388-544-1300	Hearing aid services--For children.
WAC 388-544-1400	Hearing aid services--Noncovered services.