

WSR 23-17-086

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed August 15, 2023, 2:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-13-024.

Title of Rule and Other Identifying Information: WAC

182-535A-0040 Orthodontic treatment and orthodontic-related services—Covered, noncovered, and limitations to coverage.

Hearing Location(s): On September 26, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_E7tAxNWnSVCG-SIhvxxsWg. 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: September 27, 2023.

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 September 26, 2023, 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 September 8, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending this rule to make language less restrictive in subsection (5)(c) from covering a "case study when done in conjunction with limited or comprehensive orthodontic treatment only" to a "case study when done in conjunction with orthodontic treatment."

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.

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: Janice Tadeo, P.O. Box 45506, Olympia, WA 98504-5506, 360-725-1583.

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.

Scope of exemption for rule proposal:

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

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. HCA is amending these rules to provide more precise language to define the program parameters and ensure consistency. This change does not impose a more-than-minor cost.

August 15, 2023

Wendy Barcus

OTS-4725.1

AMENDATORY SECTION (Amending WSR 23-08-009, filed 3/23/23, effective 4/23/23)

WAC 182-535A-0040 Orthodontic treatment and orthodontic-related services—Covered, noncovered, and limitations to coverage. Orthodontic treatment and orthodontic-related services require prior authorization.

(1) The medicaid agency covers orthodontic treatment and orthodontic-related services for a client who has one of the medical conditions listed in (a) and (b) of this subsection. Treatment and follow-up care must be performed only by an orthodontist or agency-recognized craniofacial team.

(a) Cleft lip and palate, cleft palate, or cleft lip.

(b) The following craniofacial anomalies including, but not limited to:

- (i) Hemifacial microsomia;
- (ii) Craniosynostosis syndromes;
- (iii) Cleidocranial dental dysplasia;
- (iv) Arthrogryposis;
- (v) Marfan syndrome;
- (vi) Treacher Collins syndrome;
- (vii) Ectodermal dysplasia; or
- (viii) Achondroplasia.

(2) The agency authorizes orthodontic treatment and orthodontic-related services when the following criteria are met:

(a) Severe malocclusions with a Washington Modified Handicapping Labiolingual Deviation (HLD) Index Score of 25 or higher as determined by the agency;

(b) The client has established caries control; and

(c) The client has established plaque control.

(3) The agency covers orthodontic treatment for dental malocclusions other than those listed in subsections (1) and (2) of this section on a case-by-case basis when the agency determines medical necessity based on documentation submitted by the provider.

(4) The agency does not cover the following orthodontic treatment or orthodontic-related services:

(a) Orthodontic treatment for cosmetic purposes;

(b) Orthodontic treatment that is not medically necessary;

(c) Orthodontic treatment provided out-of-state, except as stated in WAC 182-501-0180 (see also WAC 182-501-0175 for medical care provided in bordering cities); or

(d) Orthodontic treatment and orthodontic-related services that do not meet the requirements of this section or other applicable WAC.

(5) The agency covers the following orthodontic treatment and orthodontic-related services:

(a) Limited orthodontic treatment.

(b) Comprehensive full orthodontic treatment on adolescent dentition.

- (c) A case study when done in conjunction with (~~limited or comprehensive~~) orthodontic treatment (~~only~~).
- (d) Other orthodontic treatment subject to review for medical necessity as determined by the agency.
- (6) The agency covers the following orthodontic-related services:
 - (a) Clinical oral evaluations according to WAC 182-535-1080.
 - (b) Cephalometric films that are of diagnostic quality, dated, and labeled with the client's name.
- (c) Orthodontic appliance removal as a stand-alone service only when:
 - (i) The client's appliance was placed by a different provider or dental clinic; and
 - (ii) The provider has not furnished any other orthodontic treatment or orthodontic-related services to the client.
- (7) The treatment must meet industry standards and correct the medical issue. If treatment is discontinued prior to completion, or treatment objectives are not achieved, the provider must:
 - (a) Document in the client's record why treatment was discontinued or not completed, or why treatment goals were not achieved.
 - (b) Notify the agency by submitting the Orthodontic Discontinuation of Service form (HCA 13-0039).
- (8) The agency evaluates a request for orthodontic treatment or orthodontic-related services:
 - (a) That are in excess of the limitations or restrictions listed in this section, according to WAC 182-501-0169; and
 - (b) That are listed as noncovered according to WAC 182-501-0160.
- (9) The agency reviews requests for orthodontic treatment or orthodontic-related services for clients who are eligible for services under the EPSDT program according to the provisions of WAC 182-534-0100.