WSR 24-14-013
PROPOSED RULES
HEALTH CARE AUTHORITY
[Filed June 21, 2024, 9:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-047.

Title of Rule and Other Identifying Information: WAC 182-543-3300 Covered—Osteogenesis electrical stimulator (bone growth stimulator).

Hearing Location(s): On August 6, 2024, 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_ICtK0VXGQXClK3UtUFFypw. 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.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning June 25, 2024, 8:00 a.m., by August 6, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunications relay service 711, email Johanna.Larson@hca.wa.gov, by July 26, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending WAC 182-543-3300 to update medical necessity criteria based on evidence review(s).

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: Governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Dani Crawford, P.O. Box 45502, Olympia, WA 98504-5502, 360-725-0983.

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(4).

Explanation of exemptions: This rule proposal updates the criteria under which the medicaid agency pays for a client's bone growth stimulator. This rule proposal does not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

June 24, 2024
Wendy Barcus
Rules Coordinator

OTS-5427.1

AMENDATORY SECTION (Amending WSR 14-08-035, filed 3/25/14, effective 4/25/14)

WAC 182-543-3300 Covered—Osteogenesis electrical stimulator (bone growth stimulator)—Noninvasive. (1) The medicaid agency covers, with prior authorization, noninvasive osteogenesis electrical stimulators, also known as bone growth stimulators, limited to one per client, in a five-year period.

(2) The agency pays for the purchase of nonspinal bone growth stimulators, only when:

(a) The stimulators have pulsed electromagnetic field (PEMF) ((~~simulation~~)) stimulation; and

(b) The client meets one or more of the following clinical criteria:

(i) Has a nonunion of a long bone fracture (which includes clavicle, humerus, phalanx, radius, ulna, femur, tibia, fibula, metacarpal and metatarsal) where three months have elapsed since the date of injury without healing; or

(ii) Has a failed fusion of a joint, other than in the spine, where a minimum of nine months has elapsed since the last surgery; or

(iii) Diagnosed with congenital pseudarthrosis.

(3) The agency pays for the purchase of spinal bone growth stimulators, when:

(a) Prescribed by a neurologist, an orthopedic surgeon, or a neurosurgeon; and

(b) The client meets one or more of the following clinical criteria:

(i) Has a failed spinal fusion where a minimum of nine months ((~~have~~)) has elapsed since the last surgery; or

(ii) Is post-op from a multilevel spinal fusion surgery; or

(iii) Is post-op from spinal fusion surgery and there is a history of a previously failed spinal fusion.

(4) The agency pays for the purchase of ultrasonic noninvasive bone growth stimulators when:

(a) Prescribed by a neurologist, an orthopedic surgeon, or a neurosurgeon; and

(b) The client meets all the following clinical criteria:

(i) Nonunion confirmed by two radiographs minimum 90 days apart; and

(ii) Physician statement of no clinical evidence of fracture healing.