

WSR 24-18-075

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed August 29, 2024, 12:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-16-017.

Title of Rule and Other Identifying Information: WAC 182-532-001 Reproductive health services—Definitions, and 182-532-510 Family planning only programs—Eligibility.

Hearing Location(s): On October 8, 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_qh1B4dZXSpOc-MUfgriFCQ. 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 October 9, 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 August 30, 2024, 8:00 a.m., by October 8, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication relay service 711, email Johanna.Larson@hca.wa.gov, by September 27, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 74.09.830 provides full-scope coverage for 12 months postpartum for pregnant or postpartum persons. This coverage is more generous and thus replaces the limited scope "Family planning only—Pregnancy related program." HCA intends to remove language related to this superseded program from chapter 182-532 WAC.

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, 74.09.830.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Sheldon Prante, P.O. Box 42722, Olympia, WA 98504-2722, 360-725-1425.

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: The proposed rule pertains to client program eligibility and does not impose costs on businesses.

Scope of exemption for rule proposal:

Is fully exempt.

August 29, 2024

OTS-5473.1

AMENDATORY SECTION (Amending WSR 19-18-024, filed 8/28/19, effective 10/1/19)

WAC 182-532-001 Reproductive health services—Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

340B dispensing fee - The medicaid agency's established fee paid to a registered and medicaid-participating 340B drug program provider under the public health service (PHS) act for expenses involved in acquiring, storing and dispensing prescription drugs or drug-containing devices (see WAC 182-530-7900). A dispensing fee is not paid for non-drug items, devices, or supplies (see WAC 182-530-7050).

"Complication" - A condition occurring subsequent to and directly arising from the family planning services received under the rules of this chapter.

"Comprehensive preventive family planning visit" - For the purposes of this program, a comprehensive, preventive, contraceptive visit that includes evaluation and management of an individual, such as: Age appropriate history, examination, counseling/anticipatory guidance, risk factor reduction interventions, and laboratory and diagnostic procedures that are covered under the client's respective agency program.

"Contraception" - Prevention of pregnancy through the use of contraceptive methods.

"Contraceptive" - Food and Drug Administration (FDA)-approved prescription and nonprescription methods, including devices, drugs, products, methods, or surgical interventions used to prevent pregnancy, as described in WAC 182-530-2000.

~~("Family planning only - Pregnancy related program" - The program that covers family planning only services for eligible clients for ten months following the sixty-day post pregnancy period.)~~

"Family planning only program" - The program that covers family planning only services for eligible clients for ~~((twelve))~~ 12 months from the date the agency determines eligibility. This program was formerly referred to as TAKE CHARGE.

"Family planning services" - Medically safe and effective medical care, educational services, and contraceptives that enable individuals to plan and space the number of their children and avoid unintended pregnancies.

"Natural family planning" (also known as fertility awareness method) - Methods to identify the fertile days of the menstrual cycle and avoid unintended pregnancies, such as observing, recording, and interpreting the natural signs and symptoms associated with the menstrual cycle.

"Over-the-counter (OTC)" - Drugs, devices, and products that do not require a prescription to be sold or dispensed. (See WAC 182-530-1050)

"Reproductive health" - The prevention and treatment of illness, disease, and disability related to the function of reproductive systems during all stages of life and includes:

- (a) Related, appropriate, and medically necessary care;
- (b) Education of clients in medically safe and effective methods of family planning; and
- (c) Pregnancy and reproductive health care.

"Reproductive health care services" - Any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

"Reproductive system" - Includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

"Sexually transmitted infection (STI)" - A disease or infection acquired as a result of sexual contact.

AMENDATORY SECTION (Amending WSR 20-21-024, filed 10/9/20, effective 11/9/20)

WAC 182-532-510 Family planning only program(s)—Eligibility.

~~((To be eligible for one of the family planning only programs listed in this section, a client must meet the qualifications for that program.))~~ For the purposes of this section, "full-scope coverage" means coverage under either the categorically needy (CN) program, the broadest, most comprehensive scope of health care services covered or the alternative benefits plan (ABP), the same scope of care as CN, applicable to the apple health for adults program.

~~(1) ((**Family planning only - Pregnancy related program.**~~

~~(a) To be eligible for family planning only - Pregnancy related services, as defined in WAC 182-532-001, a client must be determined eligible for the Washington apple health for pregnant women program during the pregnancy, or determined eligible for a retroactive period covering the end of a pregnancy. See WAC 182-505-0115.~~

~~(b) A client is automatically eligible for the family planning only - Pregnancy related program when the client's pregnancy ends.~~

~~(c) A client may apply for the family planning only program in subsection (2) of this section up to sixty days before the expiration of the family planning only - Pregnancy related program.~~

~~(2) **Family planning only program.**~~

~~(a)) To be eligible for family planning only services, as defined in WAC 182-532-001, a client must:~~

~~((i)) (a) Provide a valid Social Security number (SSN) or proof of application to receive an SSN, be exempt from the requirement to provide an SSN as provided in WAC 182-503-0515, or meet good cause criteria listed in WAC 182-503-0515(2);~~

~~((ii)) (b) Be a Washington state resident, as described under WAC 182-503-0520;~~

~~((iii)) (c) Have an income at or below ((two hundred sixty)) 260 percent of the federal poverty level, as described under WAC 182-505-0100;~~

~~((iv)) (d) Need family planning services; and~~

~~((v))~~ (e) Have been denied apple health coverage within the last ~~((thirty))~~ 30 days, unless the applicant:

~~((A))~~ (i) Has made an informed choice to not apply for full-scope coverage as described in WAC 182-500-0035 and 182-501-0060, including family planning;

~~((B))~~ (ii) Is age ~~((eighteen))~~ 18 or younger and seeking services in confidence;

~~((C))~~ (iii) Is a domestic violence victim who is seeking services in confidence; or

~~((D))~~ (iv) Has an income of ~~((one hundred fifty))~~ 150 percent to ~~((two hundred sixty))~~ 260 percent of the federal poverty level, as described in WAC 182-505-0100.

~~((b))~~ (2) A client is not eligible for family planning only medical if the client is:

~~((i))~~ (a) Pregnant;

~~((ii))~~ (b) Sterilized;

~~((iii))~~ (c) Covered under another apple health program that includes family planning services; or

~~((iv))~~ (d) Covered by concurrent creditable coverage, as defined in RCW 48.66.020, unless they meet criteria in ~~((a)-(v) of this)~~ subsection (1)(e) of this section.

~~((e) A client may reapply for coverage under the family planning only program up to sixty days before the expiration of the twelve-month coverage period.)~~ (3) The agency does not limit the number of times a client may reapply for coverage.