

## WSR 22-13-047

## PROPOSED RULES

## HEALTH CARE AUTHORITY

[Filed June 8, 2022, 7:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-09-051.

Title of Rule and Other Identifying Information: Dental-related services—Covered—Preventative, WAC 182-535-1082.

Hearing Location(s): On July 26, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (HCA) continues to hold public hearings virtually without a physical meeting place. This promotes social distancing and the safety of the residents of Washington state. To attend the virtual public hearing, you must register in advance [https://us02web.zoom.us/webinar/register/WN\\_okdBeytITLCb2dmAjbv3rBA](https://us02web.zoom.us/webinar/register/WN_okdBeytITLCb2dmAjbv3rBA). 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 July 27, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax 360-586-9727, by July 26, 2022, 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](mailto:Johanna.larson@hca.wa.gov), by July 8, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending this rule to add language back in that was inadvertently struck in the final CR-103P rule text in WSR 21-14-055, effective August 2, 2021. The agency held a public hearing and agreed to a request to not strike subsection (5) regarding tobacco/nicotine cessation counseling for the control and prevention of oral disease. The agency covers tobacco/nicotine cessation counseling for pregnant women only. See WAC 182-531-1720. The agency agreed; however, the final rule text filed under WSR 21-14-055, effective August 2, 2021, inadvertently had subsection (5) struck out.

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.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

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: Pixie Needham, P.O. Box 45079, Olympia, WA 98504-5079, 360-725-9967.

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.

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. The proposed rule does not impose a disproportionate cost impact on businesses.

June 8, 2022  
Wendy Barcus  
Rules Coordinator

## OTS-3801.1

AMENDATORY SECTION (Amending WSR 21-14-055, filed 7/1/21, effective 8/1/21)

**WAC 182-535-1082 Covered—Preventive services.** Clients described in WAC 182-535-1060 are eligible for the dental-related preventive services listed in this section, subject to coverage limitations and client-age requirements identified for a specific service.

(1) **Prophylaxis.** The medicaid agency covers prophylaxis as follows. Prophylaxis:

(a) Includes scaling and polishing procedures to remove coronal plaque, calculus, and stains when performed on tooth structures and implants.

(b) Is limited to once every:

(i) Six months for clients:

(A) Age (~~((eighteen))~~) 18 and younger; or

(B) Of any age residing in an alternate living facility or nursing facility;

(ii) Twelve months for clients age (~~((nineteen))~~) 19 and older.

(c) Is reimbursed according to (b) of this subsection when the service is performed:

(i) At least six months after periodontal scaling and root planing, or periodontal maintenance services, for clients:

(A) Age (~~((thirteen))~~) 13 through (~~((eighteen))~~) 18; or

(B) Of any age residing in an alternate living facility or nursing facility; or

(ii) At least (~~((twelve))~~) 12 months after periodontal scaling and root planing, periodontal maintenance services, for clients age (~~((nineteen))~~) 19 and older.

(d) Is not reimbursed separately when performed on the same date of service as periodontal scaling and root planing, periodontal maintenance, gingivectomy, gingivoplasty, or scaling in the presence of generalized moderate or severe gingival inflammation.

(e) Is covered for clients of the developmental disabilities administration of the department of social and health services (DSHS) according to (a), (c), and (d) of this subsection and WAC 182-535-1099.

(2) **Topical fluoride treatment.** The agency covers the following per client, per provider or clinic:

(a) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, three times within a (~~((twelve-month))~~) 12-month period with a minimum of (~~((one-hundred-ten))~~) 110 days between applications for clients:

(i) Age six and younger;

(ii) During orthodontic treatment.

(b) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, two times within a (~~twelve-month~~) 12-month period with a minimum of (~~one hundred seventy~~) 170 days between applications for clients:

(i) From age seven through (~~eighteen~~) 18; or

(ii) Of any age residing in alternate living facilities or nursing facilities.

(c) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients age (~~nineteen~~) 19 and older, once within a (~~twelve-month~~) 12-month period.

(d) Additional topical fluoride applications only on a case-by-case basis and when prior authorized.

(e) Topical fluoride treatment for clients of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(3) **Silver diamine fluoride.**

(a) The agency covers silver diamine fluoride as follows:

(i) When used for stopping the progression of caries or as a topical preventive agent;

(ii) Allowed two times per client per tooth in a (~~twelve-month~~) 12-month period; and

(iii) Cannot be billed with interim therapeutic restoration on the same tooth when arresting caries or as a preventive agent.

(b) The dental provider or office must have a signed informed consent form on file for each client receiving a silver diamine fluoride application. The form must include the following:

(i) Benefits and risks of silver diamine fluoride application;

(ii) Alternatives to silver diamine fluoride application; and

(iii) A color photograph example that demonstrates the post-procedure blackening of a tooth with silver diamine fluoride application.

(4) **Oral hygiene instruction.** Includes instruction for home care such as tooth brushing technique, flossing, and use of oral hygiene aids. Oral hygiene instruction is included as part of the global fee for prophylaxis for clients age nine and older. The agency covers individualized oral hygiene instruction for clients age eight and younger when all of the following criteria are met:

(a) Only once per client every six months within a (~~twelve-month~~) 12-month period.

(b) Only when not performed on the same date of service as prophylaxis or within six months from a prophylaxis by the same provider or clinic.

(c) Only when provided by a licensed dentist or a licensed dental hygienist and the instruction is provided in a setting other than a dental office or clinic.

(5) **Tobacco/nicotine cessation counseling for the control and prevention of oral disease.** The agency covers tobacco/nicotine cessation counseling for pregnant individuals only. See WAC 182-531-1720.

(6) **Sealants.** The agency covers:

(a) Sealants for clients age (~~twenty~~) 20 and younger and clients any age of the developmental disabilities administration of DSHS.

(b) Sealants once per tooth:

(i) In a three-year period for clients age (~~twenty~~) 20 and younger; and

(ii) In a two-year period for clients any age of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(c) Sealants only when used on the occlusal surfaces of:

(i) Permanent teeth two, three, (~~fourteen, fifteen, eighteen, nineteen, thirty, and thirty-one~~) 14, 15, 18, 19, 30, and 31; and

(ii) Primary teeth A, B, I, J, K, L, S, and T.

(d) Sealants on noncarious teeth or teeth with incipient caries.

(e) Sealants only when placed on a tooth with no preexisting occlusal restoration, or any occlusal restoration placed on the same day.

(f) Sealants are included in the agency's payment for occlusal restoration placed on the same day.

(g) Additional sealants not described in this subsection on a case-by-case basis and when prior authorized.

~~((+6))~~ (7) **Space maintenance.** The agency covers:

(a) One fixed unilateral space maintainer per quadrant or one fixed bilateral space maintainer per arch, including recementation, for missing primary molars A, B, I, J, K, L, S, and T, when:

(i) Evidence of pending permanent tooth eruption exists; and

(ii) The service is not provided during approved orthodontic treatment.

(b) Replacement space maintainers on a case-by-case basis when authorized.

(c) The removal of fixed space maintainers when removed by a different provider.

(i) Space maintainer removal is allowed once per appliance.

(ii) Reimbursement for space maintainer removal is included in the payment to the original provider that placed the space maintainer.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-14-055, § 182-535-1082, filed 7/1/21, effective 8/1/21. Statutory Authority: RCW 41.05.021, 41.05.160 and 2017 3rd sp.s. c 1 § 213 (1)(c). WSR 19-09-058, § 182-535-1082, filed 4/15/19, effective 7/1/19. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-20-097, § 182-535-1082, filed 10/3/17, effective 11/3/17; WSR 16-18-033, § 182-535-1082, filed 8/26/16, effective 9/26/16. Statutory Authority: RCW 41.05.021 and 2013 2nd sp.s. c 4 § 213. WSR 14-08-032, § 182-535-1082, filed 3/25/14, effective 4/30/14. Statutory Authority: RCW 41.05.021. WSR 12-09-081, § 182-535-1082, filed 4/17/12, effective 5/18/12. WSR 11-14-075, recodified as § 182-535-1082, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, 74.09.500, 74.09.520. WSR 07-06-042, § 388-535-1082, filed 3/1/07, effective 4/1/07.]