

**WSR 23-22-103
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed October 31, 2023, 8:27 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: This rule making adopts amendments to WAC 296-21-270 Mental health services, by adding master's level therapists (MLTs) to the list of providers for mental health services. The rule making will help address the shortage of mental health providers available to provide appropriate services on accepted mental health conditions. MLTs are qualified licensed independent clinical social workers, licensed marriage and family therapists, and licensed mental health counselors.

The department of labor and industries (L&I) initiated a pilot in January 2020 to help determine how MLTs could best be incorporated into the workers' compensation setting. The pilot showed an increased access to behavioral and mental health services, both in rural and urban areas. L&I anticipates adding MLTs will continue expanding options in care for injured workers.

Citation of Rules Affected by this Order: Amending WAC 296-21-270.

Statutory Authority for Adoption: RCW 34.05.313, 51.04.020, and 51.04.030.

Adopted under notice filed as WSR 23-16-154 on August 2, 2023.

A final cost-benefit analysis is available by contacting Suzy Campbell, L&I, Insurance Services, Legal Services, P.O. Box 44270, Olympia, WA 98504-4270, phone 360-902-5003, fax 360-902-5029, TTY 360-902-4252, email suzanne.campbell@lni.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 1, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 31, 2023.

Joel Sacks
Director

OTS-4609.1

AMENDATORY SECTION (Amending WSR 15-19-139, filed 9/22/15, effective 10/23/15)

WAC 296-21-270 Mental health services. (1) The following rule supplements information contained in the fee schedules regarding coverage and reimbursement for mental health services.

(2) Treatment of mental conditions to workers is to be goal directed, time limited, intensive, targeted on specific symptoms and functional status and limited to conditions caused or aggravated by the industrial condition. Specific functional goals of treatment must be identified and treatment must have an emphasis on functional, measurable improvement towards the specific goals.

(3) Mental health services to workers are limited to those provided by psychiatrists, doctoral level psychologists (~~(and)~~), psychiatric advanced registered nurse practitioners, licensed independent clinical social workers, licensed marriage and family therapists, licensed mental health counselors, and according to department policy. Psychiatrists and psychiatric advanced registered nurse practitioners may prescribe medications while providing concurrent care. For purposes of this rule, the term "mental health services" refers to treatment by psychologists, psychiatric advanced registered nurse practitioners, (~~and~~) psychiatrists, licensed independent clinical social workers, licensed marriage and family therapists, and licensed mental health counselors.

(4) Initial evaluation, and subsequent treatment must be authorized by department staff or the self-insurer, as outlined by department policy. The report of initial evaluation, including test results, and treatment plan is to be sent to the worker's attending provider, as well as to the department or self-insurer. A copy of the (~~sixty~~) 60-day narrative reports are to be sent to the department or self-insurer and to the attending provider.

(5) (a) All providers are bound by the medical aid rules in chapter 296-20 WAC. Reporting requirements are defined in chapter 296-20 WAC. In addition, the following are required: Testing results with scores, scales, and profiles; report of raw data sufficient to allow reassessment by a panel or independent medical examiner. Explanation of the numerical scales is required.

(b) Providers must use the edition of the *Diagnostic and Statistical Manual of Mental Disorders* of the American Psychiatric Association designated by the department in the initial evaluation, follow-up evaluations and (~~sixty~~) 60-day narrative reports.

(c) A report to the department or self-insurer will contain, at least, the following elements:

- (i) Subjective complaints;
- (ii) Objective observations;
- (iii) Identification and measurement of target symptoms and functional status;
- (iv) Assessment of the worker's condition and goals accomplished in relation to the target symptoms and functional status; and
- (v) Plan of care.

(6) The codes, reimbursement levels, and other policies for mental health services are listed in the fee schedules.

(7) When providing mental health services, providers must track and document the worker's functional status using validated instruments such as the World Health Organization Disability Assessment Schedule (WHODAS) or other substantially equivalent validated instruments recommended by the department. A copy of the completed function-

al assessment instrument must be sent to the attending provider and the department or self-insurer, as required by department policy or treatment guideline.