

WSR 21-01-126

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed December 15, 2020, 4:08 p.m., effective December 15, 2020, 4:08 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The agency is filing this emergency rule to meet the Centers for Medicare and Medicaid (CMS) milestone requirement 3 regarding the agency's substance use disorder (SUD) waiver implementation plan. Milestone 3 required the agency adopt rules by July 1, 2020, reflecting the requirement that residential treatment facilities offer medication assisted treatment access on-site or facilitate off-site access.

Citation of Rules Affected by this Order: Amending WAC 182-502-0016.

Statutory Authority for Adoption: RCW 71.24.035 and 71.24.520.

Other Authority: 42 U.S.C. 1315, Sec. 1115; RCW 71.24.585

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The agency is filing an emergency rule to ensure continued federal funding by meeting CMS milestone requirement 3 regarding the agency's SUD waiver implementation plan. Milestone 3 required the agency to adopt rules by July 1, 2020, reflecting the requirement that residential treatment facilities offer medication assisted treatment access on-site or facilitate off-site access. The agency is filing this emergency rule while proceeding with the permanent rule-making process. The proposed language in this emergency filing has not changed from the previous emergency filing, under WSR 20-17-137. The agency decided to add the proposed language into the existing WAC 182-502-0016 instead of creating a new section.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: December 15, 2020.

Wendy Barcus  
Rules Coordinator

OTS-2523.2

AMENDATORY SECTION (Amending WSR 19-20-060, filed 9/26/19, effective 10/27/19)

**WAC 182-502-0016 Continuing requirements.** (1) To continue to provide services for eligible clients and be paid for those services, a provider must:

(a) Provide all services without discriminating on the grounds of race, creed, color, age, sex, sexual orientation, religion, national origin, marital status, the presence of any sensory, mental or physical handicap, or the use of a trained dog guide or service animal by a person with a disability;

(b) Provide all services according to federal and state laws and rules, medicaid agency billing instructions, provider alerts issued by the agency, and other written directives from the agency;

(c) Inform the agency of any changes to the provider's application or contract including, but not limited to, changes in:

(i) Ownership (see WAC 182-502-0018);

(ii) Address or telephone number;

(iii) Professional practicing under the billing provider number;

or

(iv) Business name.

(d) Retain a current professional state license, registration, certification or applicable business license for the service being provided, and update the agency of all changes;

(e) Inform the agency in writing within seven calendar days of changes applicable to the provider's clinical privileges;

(f) Inform the agency in writing within seven business days of receiving any informal or formal disciplinary order, disciplinary decision, disciplinary action or other action(s) including, but not limited to, restrictions, limitations, conditions and suspensions resulting from the practitioner's acts, omissions, or conduct against the provider's license, registration, or certification in any state;

(g) Screen employees and contractors with whom they do business prior to hiring or contracting, and on a monthly ongoing basis thereafter, to assure that employees and contractors are not excluded from receiving federal funds as required by 42 U.S.C. 1320a-7 and 42 U.S.C. 1320c-5;

(h) Report immediately to the agency any information discovered regarding an employee's or contractor's exclusion from receiving federal funds in accordance with 42 U.S.C. 1320a-7 and 42 U.S.C. 1320c-5. See WAC 182-502-0010 (2)(j) for information on the agency's screening process;

(i) Pass any portion of the agency's screening process as specified in WAC 182-502-0010 (2)(j) when the agency requires such information to reassess a provider;

(j) Maintain professional and general liability coverage to the extent the provider is not covered:

(i) Under agency, center, or facility professional and general liability coverage; or

(ii) By the Federal Tort Claims Act, including related rules and regulations.

(k) Not surrender, voluntarily or involuntarily, the provider's professional state license, registration, or certification in any state while under investigation by that state or due to findings by that state resulting from the practitioner's acts, omissions, or conduct;

(1) Furnish documentation or other assurances as determined by the agency in cases where a provider has an alcohol or chemical dependency problem, to adequately safeguard the health and safety of medical assistance clients that the provider:

(i) Is complying with all conditions, limitations, or restrictions to the provider's practice both public and private; and

(ii) Is receiving treatment adequate to ensure that the dependency problem will not affect the quality of the provider's practice.

(m) Submit to a revalidation process at least every five years. This process includes, but is not limited to:

(i) Updating provider information including, but not limited to, disclosures;

(ii) Submitting forms as required by the agency including, but not limited to, a new core provider agreement; and

(iii) Passing the agency's screening process as specified in WAC 182-502-0010 (2)(j).

(n) Comply with the employee education requirements regarding the federal and the state false claims recovery laws, the rights and protections afforded to whistleblowers, and related provisions in Section 1902 of the Social Security Act (42 U.S.C. 1396a(68)) and chapter 74.66 RCW when applicable. See WAC 182-502-0017 for information regarding the agency's requirements for employee education about false claims recovery.

(2) A provider may contact the agency with questions regarding its programs. However, the agency's response is based solely on the information provided to the agency's representative at the time of inquiry, and in no way exempts a provider from following the laws and rules that govern the agency's programs.

(3) The agency may refer the provider to the appropriate state health professions quality assurance commission.

(4) In addition to the requirements in subsections (1), (2), and (3) of this section, to continue to provide services for eligible clients and be paid for those services, residential treatment facilities (as defined in chapter 246-337 WAC) must:

(a) Not deny entry or acceptance of clients into the facility solely because the client is prescribed medication to treat substance use disorders (SUD).

(b) Facilitate access to medications specific to the client's diagnosed clinical needs, including medications used to treat SUD.

(c) Not mandate titration of any prescribed medications to treat any SUD as a condition of clients receiving treatment or continuing to receive treatment. Decisions concerning medication adjustment must be coordinated with the prescribing provider and be based on medical necessity.

(d) Coordinate care upon discharge for client to continue medications specific to a client's diagnosed clinical needs, including medications used to treat SUD. See RCW 71.24.585.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 U.S.C. Sec. 1396 (a) (68). WSR 19-20-060, § 182-502-0016, filed 9/26/19, effective 10/27/19. Statutory Authority: RCW 41.05.021, 41.05.160 and 42 C.F.R. 455.432. WSR 15-10-003, § 182-502-0016, filed 4/22/15, effective 5/23/15. Statutory Authority: RCW 41.05.021 and 42 C.F.R. 455. WSR 13-03-068, § 182-502-0016, filed 1/14/13, effective 2/14/13. WSR 11-14-075, recodified as § 182-502-0016, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, 74.09.080, and 74.09.290. WSR 11-11-017, § 388-502-0016, filed 5/9/11, effective 6/9/11.]