

WSR 21-07-067

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed March 16, 2021, 12:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-10-012.

Title of Rule and Other Identifying Information: WAC 182-502-0016 Continuing requirements.

Hearing Location(s): On April 27, 2021, at 10:00 a.m. As the governor's Safe Start plan progresses, it is yet unknown whether by the date of this public hearing restrictions of meeting in public places will be eased. To continue to be safe, this hearing is being scheduled as a virtual only hearing. This will not be an in-person hearing and there is not a physical location available. To attend, you must register prior to the virtual public hearing (April 27, 2021, 10:00 a.m. Pacific Time).

Registration URL <https://attendee.gotowebinar.com/register/181514389970288398>, Webinar ID 554-761-747. After registering, you will receive a confirmation email containing the information about joining the webinar.

Date of Intended Adoption: Not sooner than April 28, 2021.

Submit Written Comments to: Health Care Authority (HCA) Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by April 27, 2021.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.lougheed@hca.wa.gov, by April 9, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending this section to meet the Centers for Medicare and Medicaid Services milestone requirement 3 regarding the agency's Section 1115 Substance Use Disorder (SUD) Waiver Implementation Plan. Milestone 3 requires the adoption of rules reflecting the requirement that residential treatment facilities that provide SUD services offer medication assisted treatment access on-site or facilitate off-site access.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 71.24.035, 71.24.520, 71.24.585, and 42 U.S.C. 1315 (Sec. 1115).

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: Michael Williams, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Jessica Blose, P.O. Box 45506, Olympia, WA 98504-2716, 360-725-1088.

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. These rules do not impose a disproportionate cost impact on small businesses or nonprofits.

March 16, 2021
Wendy Barcus
Rules Coordinator

OTS-2523.5

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) The 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;

(l) 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 that provide substance use disorder (SUD) services (also see 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 SUD;

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

(c) Make any decisions regarding adjustments to medications used to treat SUD after individual assessment by a prescribing provider;

(d) Coordinate care upon discharge for the client to continue without interruption the medications specific to the client's diag-

nosed 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.]