

WSR 22-15-110

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed July 19, 2022, 5:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-06-079.

Title of Rule and Other Identifying Information: WAC 182-533-0701 Chemical-using pregnant (CUP) women program—Purpose, 182-533-0710 Chemical-using pregnant (CUP) women program—Client eligibility, 182-533-0720 Chemical-using pregnant (CUP) women program—Provider requirements, and 182-533-0730 Chemical-using pregnant (CUP) women program—Covered services.

Hearing Location(s): On August 23, 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_RT4WVYrRRrOZ6tCJOHn7YQ. 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 August 24, 2022.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by August 23, 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, by August 5, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising these rules to update language from "chemical" to "substance" and "detox" to "withdrawal management." Language will also be updated to gender-neutral terminology.

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: Heather Weiher, P.O. Box 45530, Olympia, WA 98504-5530, 360-725-1293.

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 small businesses.

July 19, 2022
Wendy Barcus
Rules Coordinator

OTS-3889.1

((CHEMICAL-USING)) SUBSTANCE-USING PREGNANT ((CUP)-WOMEN) PEOPLE (SUPP) SERVICES

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0701 ((Chemical-using)) Substance-using pregnant ((CUP)-women) people (SUPP) program—Purpose. The ((chemical-using)) substance-using pregnant ((CUP)-women) people (SUPP) program provides immediate access to medical care in a hospital setting to ((chemical-using or chemical-dependent)) substance-using or substance-dependent pregnant ((women) people and their fetuses. The purpose of the immediate access to medical care is to reduce harm to and improve birth outcomes for ((mothers)) birthing parents and their fetuses by preventing obstetric and prenatal complications related to ((chemical dependency)) substance use disorder.

[WSR 11-14-075, recodified as § 182-533-0701, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090, 74.09.800. WSR 04-11-008, § 388-533-701 (codified as WAC 388-533-0701), filed 5/5/04, effective 6/5/04.]

AMENDATORY SECTION (Amending WSR 15-14-038, filed 6/24/15, effective 7/25/15)

WAC 182-533-0710 ((Chemical-using)) Substance-using pregnant ((CUP)-women) people (SUPP) program—Client eligibility. (1) To be eligible for the ((chemical-using)) substance-using pregnant ((CUP)-women) people (SUPP) program, a ((woman)) person must be:

- (a) Pregnant; and
- (b) Eligible for medicaid.

(2) A client eligible under subsection (1) of this section who is enrolled in ((a medicaid agency)) an agency-contracted managed care plan is eligible for ((CUP)) SUPP services outside ((her)) their plan. ((CUP)) SUPP services and reimbursement are delivered outside a managed care plan and are subject to fee-for-services rules.

(3) A client receiving ((three-day or five-day detoxification)) withdrawal management services or secure withdrawal management serv-

ices through the agency is not eligible for the ((CUP-women)) SUPP program.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-14-038, § 182-533-0710, filed 6/24/15, effective 7/25/15. WSR 11-14-075, recodified as § 182-533-0710, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.800. WSR 05-08-061, § 388-533-0710, filed 3/31/05, effective 5/1/05; WSR 04-11-008, § 388-533-710 (codified as WAC 388-533-0710), filed 5/5/04, effective 6/5/04.]

AMENDATORY SECTION (Amending WSR 15-14-038, filed 6/24/15, effective 7/25/15)

WAC 182-533-0720 ((Chemical-using)) Substance-using pregnant ((CUP-women)) people (SUPP) program—Provider requirements. (1) The ((medicaid)) agency pays only those providers who:

- (a) Have been approved by the agency to provide ((chemical-using)) substance-using pregnant ((CUP-women)) people (SUPP) program services;
- (b) Have been licensed and certified as ((chemical-dependency service providers by the division of)) a behavioral health ((and recovery (DBHR) under chapter 388-877 WAC)) agency by the department of health (DOH) under chapter 246-341 WAC;
- (c) Meet the department of health hospital ((accreditation standards)) licensing regulations in chapter 246-320 WAC; and
- (d) Meet the general provider requirements in chapter 182-502 WAC ((; and
- ~~(e) Are not licensed as an institution for mental disease (IMD) under Centers for Medicare and Medicaid Services (CMS) criteria).~~

(2) Providers must:

- (a) Report any changes in their certification, level of care, or program operations to the agency ((CUP-women)) SUPP program manager;
- (b) Have written policies and procedures that include a working statement describing the purpose and methods of treatment for ((chemical-using or chemical-dependent)) substance-using or substance-dependent pregnant ((women)) people;
- (c) Provide guidelines and resources for current medical treatment methods by specific ((chemical)) substance type;
- (d) Have linkages with state and community providers to ensure a working knowledge exists of current medical and substance ((abuse)) use disorder resources; and
- (e) Ensure that ((a-chemical-dependency)) an assessment for substance use disorders of the client has been completed:
 - (i) By a ((chemical-dependency)) substance use disorder professional under chapter 246-811 WAC;
 - (ii) Using the latest criteria of the American Society of Addiction Medicine (ASAM); and
 - (iii) No earlier than six months before, and no later than five days after, the client's admission to the ((CUP-women)) SUPP program.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-14-038, § 182-533-0720, filed 6/24/15, effective 7/25/15. WSR 11-14-075, recodified as § 182-533-0720, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.800. WSR 05-08-061, § 388-533-0720,

filed 3/31/05, effective 5/1/05; WSR 04-11-008, § 388-533-720 (codified as WAC 388-533-0720), filed 5/5/04, effective 6/5/04.]

AMENDATORY SECTION (Amending WSR 15-14-038, filed 6/24/15, effective 7/25/15)

WAC 182-533-0730 (~~(Chemical-using)~~) Substance-using pregnant (~~((CUP) women))~~ people (SUPP) program—Covered services. (1) The (~~(medicaid)~~) agency pays for the following covered services for a pregnant client and (~~(her)~~) their fetus under the (~~(chemical-using)~~) substance-using pregnant (~~((CUP) women))~~ people (SUPP) program:

(a) Primary acute (~~(detoxification)~~) withdrawal management and medical stabilization;

(b) Secondary subacute (~~(detoxification)~~) withdrawal management and medical stabilization; and

(c) Rehabilitation treatment and services as determined by the provider.

(2) The maximum length of treatment per inpatient stay that the agency will pay for is (~~(twenty-six)~~) 26 days, unless additional days have been preauthorized by the agency (~~(CUP women)~~) (SUPP) program manager.

(3) If a client's pregnancy ends before inpatient treatment is completed, a provider may continue (~~(her)~~) treatment through the (~~(twenty-sixth)~~) 26th day.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-14-038, § 182-533-0730, filed 6/24/15, effective 7/25/15. WSR 11-14-075, recodified as § 182-533-0730, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.800. WSR 05-08-061, § 388-533-0730, filed 3/31/05, effective 5/1/05; WSR 04-11-008, § 388-533-730 (codified as WAC 388-533-0730), filed 5/5/04, effective 6/5/04.]