



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: July 19, 2022

TIME: 5:10 PM

WSR 22-15-110

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR \_\_\_\_\_

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 22-06-079 ; or

Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject)

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

182-533-0730 Chemical-using pregnant (CUP) women program – Covered services

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 23, 2022	10:00 AM	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Health Care Authority 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: <a href="https://us02web.zoom.us/webinar/register/WN_RT4WVYrRRrOZ6tCJOhN7YQ">https://us02web.zoom.us/webinar/register/WN_RT4WVYrRRrOZ6tCJOhN7YQ</a> 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 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: HCA Rules Coordinator

Address: PO Box 42716, Olympia WA 98504-2716

Email: [arc@hca.wa.gov](mailto:arc@hca.wa.gov)

Fax: (360) 586-9727

Other:

By (date) August 23, 2022, by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: [Johanna.larson@hca.wa.gov](mailto:Johanna.larson@hca.wa.gov)

Other:

By (date) 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

**Is rule necessary because of a:**

Federal Law?  Yes  No

Federal Court Decision?  Yes  No

State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** N/A

**Name of proponent:** (person or organization) Health Care Authority

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Valerie Freudenstein	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Heather Weiher	PO Box 45530, Olympia, WA 98504-5530	360-725-1293
Enforcement:	Heather Weiher	PO Box 45530, Olympia, WA 98504-5530	360-725-1293

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:  
Email:  
Other:

No: Please explain: RCW 34.05.328 does not apply to Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- |   |  |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)<br>(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> RCW 34.05.310 (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The proposed rule does not impose a disproportionate cost impact on small businesses.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** July 19, 2022

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**((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.

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

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.

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 ((he~~r~~) treatment through the ((~~twenty-sixth~~) 26th day.