



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 15, 2020

TIME: 4:18 PM

WSR 20-13-063

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-06-042 ; 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)

182-524-0100 General

182-524-0200 Definitions

182-524-0275 Eligibility—COFA Islander dental care coverage (NEW SECTION)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 21, 2020	10:00 AM	As more counties move into phase 2 of the Governor's Safe Start plan, it is yet unknown whether by the date of this public hearing restrictions of meeting in public places will be eased. Therefore, this hearing is being held virtually only. This will not be an in-person hearing and there is not a physical location available.	You must register for this public hearing on July 21, 2020, 10:00 AM PDT at: https://attendee.gotowebinar.com/register/6074456904428252685 After registering, you will receive a confirmation email containing information about joining the webinar.

Date of intended adoption: Not sooner than July 22, 2020 (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

Fax: (360) 586-9727

Other:

By (date) July 21, 2020

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) July 10, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is creating a new section within Chapter 182-524 WAC to implement RCW 74.09.719, which provides dental services for Compact of Free Association (COFA) Islanders and revising other sections as necessary..

Reasons supporting proposal: See purpose.

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Statute being implemented: RCW 74.09.719

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:	Michael Williams	PO Box 42716, Olympia WA 98504-2716	(360) 725-1346
Implementation:	Ariel Pyrtek	PO Box 45505, Olympia WA 98504-2716	(360) 725-1919
Enforcement:	Ariel Pyrtek	PO Box 45505, Olympia WA 98504-2716	(360) 725-1919

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)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((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 rules are regarding eligibility and do not impose any costs on 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: June 15, 2020

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 19-11-082, filed 5/17/19, effective 6/17/19)

WAC 182-524-0100 General. (1) Compact of Free Association (COFA) islander health care (~~(is-a)~~) and COFA islander dental care are state-funded programs administered by the health care authority (the agency) to pay the monthly premiums and out-of-pocket expenses for silver level qualified health plans or qualified dental plans for eligible COFA islanders.

(2) For the purpose of this chapter, "our," "us," and "we" refer to the agency or the agency's designee and "you" refers to the applicant for, or recipient of, COFA islander health care.

(3) You have the right to appeal any adverse agency action regarding COFA islander health care or COFA islander dental care as described in chapter 182-526 WAC. For coordinated appeals with the Washington health benefit exchange, as described under WAC 182-526-0102, we treat appeals made to either the Washington health benefit exchange or us as filed on the same day. You will not have to submit any information that you have previously submitted to either the Washington health benefit exchange or us.

AMENDATORY SECTION (Amending WSR 19-11-082, filed 5/17/19, effective 6/17/19)

WAC 182-524-0200 Definitions. This section defines terms used in this chapter. See chapter 182-500 WAC for additional definitions.

"Advance premium tax credit (APTC)" - A tax credit taken in advance to lower a monthly health insurance payment (or premium).

"COFA islander" - A person who is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

"COFA islander dental care" - An agency-administered program that pays the premium and out-of-pocket costs for a stand-alone dental plan for eligible COFA islanders.

"COFA islander health care" - An agency-administered program that pays the premium and out-of-pocket costs for a silver level qualified health plan for eligible COFA islanders.

"Compact of Free Association (COFA)" - A legal agreement between the government of the United States and the governments of the Federated States of Micronesia (U.S. Pub. L. 108-188); the Republic of the Marshall Islands (U.S. Pub. L. 108-188); and the Republic of Palau (U.S. Pub. L. 99-658).

"Cost-sharing funds" - Agency-provided funds for out-of-pocket costs.

"Out-of-pocket costs" - Copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits covered by the plan and rendered as in-network. Excludes premiums, balance billing amounts for out-of-network providers, and spending for noncovered services.

"Premium cost" - A person's premium for a qualified health plan, minus the amount of the person's advanced premium tax credit.

"Qualified dental plan (QDP)" - A stand-alone dental plan offered by the Washington health benefit exchange (HBE). For a definition of stand-alone dental plan, see WAC 284-43-6020.

"Qualified dental plan - Noncovered services" - In-network services that are not covered by the QDP, and are consistent with but do not exceed benefits covered under the agency's adult dental program described in chapter 182-535 WAC.

"Silver level qualified health plan (QHP)" - Silver level indicates the category of a qualified health plan (QHP) offered by the Washington health benefit exchange (HBE). For a definition of QHP, see WAC 182-500-0090.

NEW SECTION

WAC 182-524-0275 Eligibility—COFA islander dental care coverage. You apply for COFA islander dental care the same way you would apply for COFA islander health care as described in WAC 182-524-0250.

(1) To be eligible for state-funded COFA islander dental care, you must enroll in a qualified dental plan (QDP) through the Washington health benefit exchange (HBE) during open enrollment or when you qualify for a special enrollment period as described in 45 C.F.R. 155.410 and 45 C.F.R. 420.

(2) You are eligible for COFA islander dental care administered by us no earlier than January 1, 2021, if you enroll in a QDP and:

(a) Meet the requirements of COFA islander health care as described in WAC 182-524-0300 (1)(a) through (f); or

(b) Are enrolled in medicare, meet the requirements as described in WAC 182-524-0300 (1)(a) and (c) and:

(i) Are a resident as described in WAC 182-524-0400 (1) through (3).

(ii) You can be temporarily out-of-state and remain on COFA islander dental care if you:

(A) Intend to return once the purpose of your absence concludes; and

(B) Meet the eligibility requirements described in this section.

(3) Eligibility for COFA islander dental care under subsection (2) of this section is subject to the availability of amounts appropriated for the program as described in WAC 182-524-0300(2).

(4) Your COFA islander dental care begins the first day of the month your QDP coverage begins and you meet the other eligibility requirements described in subsection (2) of this section.

(5) We will pay for your premiums, QDP out-of-pocket costs and QDP-noncovered services the same way we pay your premiums and out-of-pocket costs for COFA islander health care as described in WAC 182-524-0600. We may require authorization for payment for QDP-noncovered services.

(6) We will not pay for expenses incurred by people not covered under COFA islander dental care or services excluded under the medic-aid dental program as described in WAC 182-535-1100.

(7) We will send you notices and letters according to the same provisions and requirements as the letters we send regarding COFA islander health care as described in WAC 182-524-0500.

(8) We will terminate your COFA islander dental care if you:

- (a) No longer meet the eligibility criteria described in subsection (2) of this section;
- (b) Request termination;
- (c) Perform an act, practice, or omission that constitutes fraud and your insurer rescinds your policy;
- (d) Use your COFA islander dental care cost-sharing funds to pay for anything other than:
 - (i) Out-of-pocket costs for dental coverage under your QDP; or
 - (ii) Authorized QDP-noncovered services.
- (9) We will reinstate your COFA islander dental care if you are:
 - (a) Terminated in error; or
 - (b) Successful in your appeal of a termination.
- (10) If you report a change that makes you eligible for COFA islander dental care, your sponsorship begins either:
 - (a) The first day of the following month, if the change was reported on or before the fifteenth of the month; or
 - (b) The first day of the month after the following month, if the change was reported after the fifteenth of the month.
- (11) Your COFA islander dental care ends the day your enrollment in a silver level QHP ends or the last day of the month your COFA islander dental care eligibility ends, whichever is earlier.