



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 29, 2024

TIME: 12:59 PM

WSR 24-18-075

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 23-16-017 ; 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) 182-532-001, Reproductive health services – Definitions; 182-532-510, Family planning only programs - Eligibility

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 8, 2024	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place	To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_qhIB4dZXSpOc-MUfgriFCQ 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 October 9, 2024 (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

Beginning (date and time) August 30, 2024, 8:00 AM

By (date and time) October 8, 2024, by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson
Phone 360-725-1349
Fax 360-586-9727
TTY Telecommunication Relay Service (TRS): 711
Email Johanna.Larson@hca.wa.gov
Other

By (date) September 27, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: RCW 74.09.830 provides full-scope coverage for 12 months postpartum for pregnant or postpartum persons. This coverage is more generous than and thus replaces the limited scope "Family planning only – Pregnancy related program." The agency intends to remove language related to this superseded program from chapter 182-532 WAC.

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, 74.09.830

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

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

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Brian Jensen	PO Box 42716, Olympia, WA 98504-2716	360-725-0815
Implementation	Sheldon Prante	PO Box 42722, Olympia, WA 98504-2722	360-725-1425
Enforcement	Sheldon Prante	PO Box 42722, Olympia, WA 98504-2722	360-725-1425

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 and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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 19.85.025\(4\)](#). (Does not affect small businesses).

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

Explanation of how the above exemption(s) applies to the proposed rule: The proposed rule pertains to client program eligibility and does not impose costs on businesses.

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.


(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: August 29, 2024	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-532-001 Reproductive health services—Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

340B dispensing fee - The medicaid agency's established fee paid to a registered and medicaid-participating 340B drug program provider under the public health service (PHS) act for expenses involved in acquiring, storing and dispensing prescription drugs or drug-containing devices (see WAC 182-530-7900). A dispensing fee is not paid for non-drug items, devices, or supplies (see WAC 182-530-7050).

"Complication" - A condition occurring subsequent to and directly arising from the family planning services received under the rules of this chapter.

"Comprehensive preventive family planning visit" - For the purposes of this program, a comprehensive, preventive, contraceptive visit that includes evaluation and management of an individual, such as: Age appropriate history, examination, counseling/anticipatory guidance, risk factor reduction interventions, and laboratory and diagnostic procedures that are covered under the client's respective agency program.

"Contraception" - Prevention of pregnancy through the use of contraceptive methods.

"Contraceptive" - Food and Drug Administration (FDA)-approved prescription and nonprescription methods, including devices, drugs, products, methods, or surgical interventions used to prevent pregnancy, as described in WAC 182-530-2000.

~~("Family planning only - Pregnancy related program" - The program that covers family planning only services for eligible clients for ten months following the sixty-day post pregnancy period.)~~

"Family planning only program" - The program that covers family planning only services for eligible clients for ~~((twelve))~~ 12 months from the date the agency determines eligibility. This program was formerly referred to as TAKE CHARGE.

"Family planning services" - Medically safe and effective medical care, educational services, and contraceptives that enable individuals to plan and space the number of their children and avoid unintended pregnancies.

"Natural family planning" (also known as fertility awareness method) - Methods to identify the fertile days of the menstrual cycle and avoid unintended pregnancies, such as observing, recording, and interpreting the natural signs and symptoms associated with the menstrual cycle.

"Over-the-counter (OTC)" - Drugs, devices, and products that do not require a prescription to be sold or dispensed. (See WAC 182-530-1050)

"Reproductive health" - The prevention and treatment of illness, disease, and disability related to the function of reproductive systems during all stages of life and includes:

- (a) Related, appropriate, and medically necessary care;
- (b) Education of clients in medically safe and effective methods of family planning; and
- (c) Pregnancy and reproductive health care.

"Reproductive health care services" - Any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

"Reproductive system" - Includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

"Sexually transmitted infection (STI)" - A disease or infection acquired as a result of sexual contact.

AMENDATORY SECTION (Amending WSR 20-21-024, filed 10/9/20, effective 11/9/20)

WAC 182-532-510 Family planning only program(s)—Eligibility.

~~((To be eligible for one of the family planning only programs listed in this section, a client must meet the qualifications for that program.))~~ For the purposes of this section, "full-scope coverage" means coverage under either the categorically needy (CN) program, the broadest, most comprehensive scope of health care services covered or the alternative benefits plan (ABP), the same scope of care as CN, applicable to the apple health for adults program.

~~(1) ((**Family planning only - Pregnancy related program.**~~

~~(a) To be eligible for family planning only - Pregnancy related services, as defined in WAC 182-532-001, a client must be determined eligible for the Washington apple health for pregnant women program during the pregnancy, or determined eligible for a retroactive period covering the end of a pregnancy. See WAC 182-505-0115.~~

~~(b) A client is automatically eligible for the family planning only - Pregnancy related program when the client's pregnancy ends.~~

~~(c) A client may apply for the family planning only program in subsection (2) of this section up to sixty days before the expiration of the family planning only - Pregnancy related program.~~

~~(2) **Family planning only program.**~~

~~(a)) To be eligible for family planning only services, as defined in WAC 182-532-001, a client must:~~

~~((i)) (a) Provide a valid Social Security number (SSN) or proof of application to receive an SSN, be exempt from the requirement to provide an SSN as provided in WAC 182-503-0515, or meet good cause criteria listed in WAC 182-503-0515(2);~~

~~((ii)) (b) Be a Washington state resident, as described under WAC 182-503-0520;~~

~~((iii)) (c) Have an income at or below ((two hundred sixty)) 260 percent of the federal poverty level, as described under WAC 182-505-0100;~~

~~((iv)) (d) Need family planning services; and~~

~~((v)) (e) Have been denied apple health coverage within the last ((thirty)) 30 days, unless the applicant:~~

~~((A)) (i) Has made an informed choice to not apply for full-scope coverage as described in WAC 182-500-0035 and 182-501-0060, including family planning;~~

~~((B)) (ii) Is age ((eighteen)) 18 or younger and seeking services in confidence;~~

~~((C))~~ (iii) Is a domestic violence victim who is seeking services in confidence; or

~~((D))~~ (iv) Has an income of ~~((one hundred fifty))~~ 150 percent to ~~((two hundred sixty))~~ 260 percent of the federal poverty level, as described in WAC 182-505-0100.

~~((b))~~ (2) A client is not eligible for family planning only medical if the client is:

~~((i))~~ (a) Pregnant;

~~((ii))~~ (b) Sterilized;

~~((iii))~~ (c) Covered under another apple health program that includes family planning services; or

~~((iv))~~ (d) Covered by concurrent creditable coverage, as defined in RCW 48.66.020, unless they meet criteria in ~~((a)-(v) of this)~~ subsection (1)(e) of this section.

~~((e) A client may reapply for coverage under the family planning only program up to sixty days before the expiration of the twelve-month coverage period.)~~ (3) The agency does not limit the number of times a client may reapply for coverage.