RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Health Care Authority, Washington Apple Health

Permanent Rule Only

Effective date of rule:

Permanent Rules

☐ 31 days after filing.

☒ Other (specify) March 1, 2017 **(If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)**

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose:

The agency is proposing new rules under Chapter 182-558 WAC that will provide parameters for program operations of the premium payment program.

Citation of existing rules affected by this order:

Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 16-17-062 on August 15, 2016.

Describe any changes other than editing from proposed to adopted version: See Attachment.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

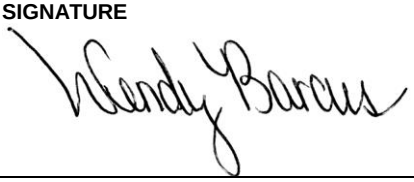
Name:
Address:

phone ( ) _____
fax ( ) _____
e-mail _____

Date adopted: January 5, 2017

NAME (TYPE OR PRINT)
Wendy Barcus

SIGNATURE



TITLE
HCA Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 05, 2017
TIME: 3:14 PM

WSR 17-03-014

(COMPLETE REVERSE SIDE)

Note: If any category is left blank, it will be calculated as zero. No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted in the agency's own initiative:

New _____ Amended _____ Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended 8 Repealed _____

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	8	Repealed	_____

ATTACHMENT

- **WAC 182-558-0010 Premium payment program (PPP)**
  Revised as follows: The medicaid agency may pay a premium assistance subsidy for comprehensive health insurance premiums and other cost-sharing when the agency determines it would cost less ~~cost-effective~~ to maintain a client's available health care coverage than it would cost to provide comparable medicaid coverage.

- **WAC 182-558-0020 Definitions**

  Average cost per user - Revised as follows: means the ~~agency's~~ average medicaid expenditure for a person of the same age ~~and,~~ sex, and eligibility type as the applicant, per fiscal year~~, including administrative costs~~ as calculated by the agency.

  Cost-effective - Revised as follows: means ~~the cost to~~ it would cost less for the agency ~~for a premium assistance subsidy for a client is less than:~~ to pay premium assistance than not to pay premium assistance. The agency determines cost-effectiveness by comparing the anticipated cost of premiums, cost-sharing, and administrative costs to:
  (a) The average cost per user; or
  (b) The medicaid expenditures to be incurred if the client does not receive the ~~subsidy~~ premium assistance, based on the client's documented medical condition.

  Overpayment - Added definition for overpayment to "mean the same definition for purposes of this chapter as that term is defined in RCW 41.05A.010."

- **WAC 182-558-0030**
  Struck subsection (1)(c) – "~~The client must not be eligible for medicare.~~"

  Added new subsections (3)(e) and (4) and renumbered the rest of the subsections.

  (3) A comprehensive health insurance plan does not include:
  (a) A health savings account or flexible health spending arrangement;
  (b) A high-deductible plan;
  (c) A high-risk plan, including a Washington state health insurance pool (WSHIP) plan; ~~or~~
  (d) A limited or supplemental plan, including a medicare supplemental plan; or
  (e) A medicare advantage plan (medicare part C).
  (4) Exceptions to comprehensive health insurance requirement in subsection (1)(b)(i) of this section.
  (a) The agency will continue eligibility for clients currently in the premium payment program with a plan as described in subsection 3 (c), (d), or (e) of this section as long as:
  (i) The client remains continuously eligible for medicaid benefits under subsection 1(a) of this section; and
  (ii) The client was approved for the premium payment program on or before January 1, 2012.
  (b) The agency limits the premium assistance subsidy for a client eligible under subsection (4)(a) of this section to an amount the agency determines cost-effective.

  Revised subsection (6)(b) – as follows:
  (6)(b) That the cost of the medicaid expenditures would be greater if the agency does not pay ~~a~~ premium assistance ~~subsidy~~.

Revised subsection (7) as follows:

(7) The agency pays no more than one premium per client, per month. PPP enrollment begins no sooner than the date on which:

(a) A ~~The date on which a~~ client is approved for medicaid;

(b) The ~~date on which the medicaid~~ agency receives and accepts the completed Application for HCA Premium Payment (HCA 13-705) form; and

(c) A ~~The date on which a~~ client's apple health managed care enrollment, if applicable, ends.

Added subsection (8) – as follows:

(8) A client enrolled in the PPP is exempt from otherwise mandatory managed care under chapter 182-538 WAC.

Revised subsection (13) as follows:

(13) The agency may review a client's eligibility for the PPP at any time, including~~,~~ but not limited to when the client's:

(a) ~~A reported increase in the client's premium;~~

~~(b)~~ Health insurance plan has an ~~An~~ annual open enrollment ~~for the client's health insurance plan~~; ~~or~~

~~(c)~~ (b) ~~A change in~~ Medicaid eligibility changes or ends~~, or the medical assistance unit~~;

(c) Medical assistance unit changes;

(d) Premium changes; or

(e) Private health insurance coverage changes or ends.

- **WAC 182-558-0040** – Revised as follows:
  Added "and" after subsection (2)(a).
  Struck subsection subsection (2)(c) ~~Is not eligible for medicare.~~

- **WAC 182-558-0050 –** Revised as follows:
  Subsection (1) - Added "as defined in WAC 182-558-0020" and added "and" after ;.
  Subsection (2)(c) – Struck "~~Is not eligible for medicare.~~"

- **WAC 182-558-0060 –** Revised as follows:
  Subsection (1) **"General rule**. Under section 1906A of the Social Security Act, the agency pays an eligible person's premium assistance subsidy and other cost-sharing obligations when the agency determines it is cost-effective as defined in WAC 182-558-0020 ~~for a qualified employer-sponsored group health insurance plan~~.

  Subsection (2) **Eligible persons.** An eligible person is ~~a client~~:
  (a) A client under age nineteen who is:
  (i) Covered under a qualified employer-sponsored group health insurance plan as defined in WAC 182-558-0020;
  (ii~~b~~) Receiving benefits under:
  (A~~i~~) Alternative benefits plan coverage;
  (B~~ii~~) Categorically needy coverage; or
  (C~~iii~~) Medically needy coverage.
  (~~c~~b) The parent of the client in (a) of this subsection, if:
  (i) Enrollment in the health plan depends on a parent's enrollment; and
  (ii) The client is a dependent of the parents~~; and~~
  ~~(d) Not eligible for medicare~~.

- **WAC 182-558-0070** - Revised as follows:
  Subsection (2) Under chapter 41.05A RCW, the agency may recover any overpayment of a premium assistance subsidy or cost-sharing amount ~~made in error under chapter 41.05A RCW,~~ whether due to ~~client error,~~ an agency administrative error, or client error or misrepresentation.

- **WAC 182-558-0080 Administrative hearings** – Revised as follows:
  "A client may request an administrative hearing under RCW 41.05A.110, RCW 74.09.741 and chapter 182-526 WAC if the client does not agree with an agency decision…."

Chapter 182-558 WAC
PREMIUM PAYMENT PROGRAM

NEW SECTION

WAC 182-558-0010 Premium payment program (PPP). The medicaid agency may pay a premium assistance subsidy for comprehensive health insurance premiums and other cost-sharing when the agency determines it would cost less to maintain a client's available health care coverage than it would cost to provide comparable medicaid coverage.

NEW SECTION

WAC 182-558-0020 Definitions. The following definitions, and those found in chapter 182-500 WAC, apply to this chapter.

"Average cost per user" means the average medicaid expenditure for a person of the same age, sex, and eligibility type as the applicant, per fiscal year, as calculated by the agency.

"Comprehensive" means coverage comparable to the services offered under the agency's medicaid state plan that provides at least the following: Physician-related services, inpatient hospital services, outpatient hospital services, prescription drugs, immunizations, and laboratory and X-ray costs.

"Cost-effective" means it would cost less for the agency to pay premium assistance than not to pay premium assistance. The agency determines cost-effectiveness by comparing the anticipated cost of premiums, cost-sharing, and administrative costs to:

(a) The average cost per user; or

(b) The medicaid expenditures to be incurred if the client does not receive the premium assistance, based on the client's documented medical condition.

"Employer-sponsored group health insurance" means a comprehensive group health plan provided through an employer or other entity, for which the employer or entity pays some portion of the cost. Group health plans must cover all applicants whose employment qualifies them for coverage and cannot increase the cost for an applicant with a preexisting condition.

"Flexible health spending arrangement" means the portion of an employee's wages set aside in an account to pay for qualified expenses such as medical or child care costs.

"Health savings account" means a medical savings account available to employees enrolled in a high-deductible health insurance plan.

"High-deductible health insurance plan" means coverage that meets the definition in Section 223(c)(2) of the Internal Revenue Code.

"Overpayment" has the same definition for purposes of this chapter as that term is defined in RCW 41.05A.010.

"Qualified employer-sponsored group health insurance" means a comprehensive group health plan provided through an employer that is offered in a nondiscriminatory manner under 26 U.S.C. Sec. 105(h)(3),

and for which the employer subsidizes at least forty percent of the cost of the premium.

NEW SECTION

WAC 182-558-0030 Overview of eligibility. (1) To be eligible for the premium payment program (PPP):

(a) A member of the client's medical assistance unit, as described in chapter 182-506 WAC, must be receiving benefits under:

(i) Alternative benefits plan coverage;

(ii) Categorically needy coverage; or

(iii) Medically needy coverage.

(b) The client must provide the medicaid agency with proof of:

(i) Enrollment in a comprehensive individual or comprehensive employer-sponsored health insurance plan;

(ii) A Social Security Number or tax identification number for the policy holder; and

(iii) Premium expenditures.

(2) A comprehensive health insurance plan includes:

(a) An individual health insurance plan;

(b) An employer-sponsored group health insurance plan; or

(c) A qualified employer-sponsored group health insurance plan.

(3) A comprehensive health insurance plan does not include:

(a) A health savings account or flexible health spending arrangement;

(b) A high-deductible plan;

(c) A high-risk plan, including a Washington state health insurance pool (WSHIP) plan;

(d) A limited or supplemental plan, including a medicare supplemental plan; or

(e) A medicare advantage plan (medicare Part C).

(4) Exceptions to comprehensive health insurance requirement in subsection (1)(b)(i) of this section:

(a) The agency will continue eligibility for clients currently in the premium payment program with a plan as described in subsection (3)(c), (d), or (e) of this section as long as:

(i) The client remains continuously eligible for medicaid benefits under subsection (1)(a) of this section; and

(ii) The client was approved for the premium payment program on or before January 1, 2012.

(b) The agency limits the premium assistance subsidy for a client eligible under subsection (4)(a) of this section to an amount the agency determines cost-effective.

(5) A comprehensive health insurance plan must be cost effective as defined in WAC 182-558-0020.

(6) If a client's comprehensive health insurance premium is more than the average cost per user, the client must provide the agency proof from the client's provider(s):

(a) Of an existing medical condition that requires or will be requiring extensive medical care; and

(b) That the cost of the medicaid expenditures would be greater if the agency does not pay premium assistance.

(7) The agency pays no more than one premium per client, per month. PPP enrollment begins no sooner than the date on which:

(a) A client is approved for medicaid;

(b) The agency receives and accepts the completed Application for HCA Premium Payment Program (HCA 13-705) form; and

(c) A client's apple health managed care enrollment, if applicable, ends.

(8) A client enrolled in the PPP is exempt from otherwise mandatory managed care under chapter 182-538 WAC.

(9) The agency's premium assistance subsidy may not exceed the minimum amount required to maintain comprehensive health insurance for the medicaid-eligible client.

(10) Proof of premium expenditures must be submitted to the agency no later than the end of the third month following the last month of coverage.

(11) The agency's cost-sharing benefit for copays, coinsurance, and deductibles is limited to services covered under the medicaid state plan.

(12) Proof of cost-sharing must be submitted to the agency no later than the end of the sixth month following the date of service.

(13) The agency may review a client's eligibility for the PPP at any time including, but not limited to, when the client's:

(a) Health insurance plan has an annual open enrollment;

(b) Medicaid eligibility changes or ends;

(c) Medical assistance unit changes;

(d) Premium changes; or

(e) Private health insurance coverage changes or ends.

NEW SECTION

WAC 182-558-0040 PPP for a client with an individual health insurance plan. (1) **General rule.** Under section 1905(a) of the Social Security Act, the agency pays a premium assistance subsidy up to an eligible person's individual health insurance premium obligation when the agency determines it is cost effective.

(2) **Eligible persons.** An eligible person is any client who:

(a) Has a comprehensive individual health insurance plan; and

(b) Is receiving categorically needy or medically needy coverage.

NEW SECTION

WAC 182-558-0050 PPP for a client with an employer-sponsored group health insurance plan. (1) **General rule.** Under section 1906 of the Social Security Act, the agency pays a premium assistance subsidy up to an eligible person's employer-sponsored group health insurance plan premium obligation when the agency determines it is cost effective as defined in WAC 182-558-0020.

(2) **Eligible persons.** An eligible person is any client who:

(a) Has a comprehensive employer-sponsored group health insurance plan, which may be a Consolidated Omnibus Budget Reconciliation Act (COBRA) health insurance plan as described in 26 C.F.R. 54.4980; and

(b) Is receiving categorically needy or medically needy coverage.

NEW SECTION

WAC 182-558-0060 PPP for a client with a qualified employer-sponsored group health insurance plan. (1) **General rule.** Under section 1906A of the Social Security Act, the agency pays an eligible person's premium assistance subsidy and other cost-sharing obligations when the agency determines it is cost-effective as defined in WAC 182-558-0020.

(2) **Eligible persons.** An eligible person is:

(a) A client under age nineteen who is:

(i) Covered under a qualified employer-sponsored group health insurance plan as defined in WAC 182-558-0020;

(ii) Receiving benefits under:

(A) Alternative benefits plan coverage;

(B) Categorically needy coverage; or

(C) Medically needy coverage.

(b) The parent of the client in (a) of this subsection, if:

(i) Enrollment in the health plan depends on a parent's enrollment; and

(ii) The client is a dependent of the parents.

(3) **Cost-sharing benefit.** The PPP provides cost-sharing reimbursement limited to services for the medicaid-eligible client or their parents.

NEW SECTION

WAC 182-558-0070 Program monitoring. (1) The agency monitors payments under the premium payment program.

(2) Under chapter 41.05A RCW, the agency may recover any overpayment of a premium assistance subsidy or cost-sharing amount, whether due to an agency administrative error, or client error or misrepresentation.

NEW SECTION

WAC 182-558-0080 Administrative hearings. A client may request an administrative hearing under RCW 41.05A.110, 74.09.741, and chapter 182-526 WAC if the client does not agree with an agency decision regarding eligibility for the premium payment program, the amount of a premium assistance subsidy, or an overpayment of a premium assistance subsidy.