



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: March 25, 2019

TIME: 1:02 PM

WSR 19-08-018

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-06-037 ; 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) 182-558-0010 Premium payment program (PPP); 182-558-0020 Definitions; 182-558-0030 Overview of eligibility; 182-558-0040 PPP for a client with an individual health insurance plan; 182-558-0050 PPP for a client with an employer-sponsored group health insurance plan; and 182-558-0060 PPP for a client with a qualified employer-sponsored group health insurance plan

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 7, 2019	10:00 AM	Health Care Authority Cherry Street Plaza Apple Conference Room 127 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than May 8, 2019 (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) May 7, 2019

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: (800) 848-5429 or 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) May 3, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending Chapter 182-558 WAC to clarify and update eligibility criteria for clients receiving premium assistance subsidies for comprehensive health insurance. Amendments include the following:

WAC 182-558-0010 clarifies that the agency pays premium assistance subsidies when the agency determines it is cost effective to maintain the available health care coverage.

The agency added a definition for "Premium tax credit" in WAC 182-558-0020, as the agency used that that term in WAC 182-558-0030(3)(f).

The agency added subsection WAC 182-558-0030(3)(g), which provides that a comprehensive health insurance plan does not include a plan that is the legal obligation of a noncustodial parent or other liable party. As a result, the agency will not pay a client if a third party is obligated to make the payment.

Changes to the eligibility requirements in WAC 182-558-0030(4) for the exception to the comprehensive insurance requirement provide that only Premium Payment Plan participants who have been enrolled in the same health insurance plan since January 1, 2012 are eligible for participation in the program. This change limits eligibility for the program.

Proposed WACs 182-558-0040 and 182-558-0050 include the alternative benefit plan to the list of eligibility coverage options, allowing more people to be eligible for the Premium Payment Program.

The agency revised WAC 182-558-0060 to clarify that non-Medicaid-eligible parents of clients under age nineteen may receive cost-sharing reimbursements for Medicaid-covered services.

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:	Melinda Froud	PO Box 42716, Olympia WA 98504-2716	360-725-1408
Implementation:	Melissa Bruce	PO Box 45518, Olympia, WA 98504-5518	360-725-1572
Enforcement:	Melissa Bruce	PO Box 45518, Olympia, WA 98504-5518	360-725-1572

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:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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 do not impose any costs 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: March 25, 2019

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:

A handwritten signature in black ink that reads "Wendy Barcus". The signature is written in a cursive style with a large, sweeping 'W' and 'B'.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

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 (defined in WAC 182-500-0020) when the agency determines it would (~~cost less~~) be cost-effective to maintain a client's available health care coverage (~~(than it would cost to provide comparable medicaid coverage)~~).

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

WAC 182-558-0020 Definitions. The following definitions, and those definitions 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 pre-existing 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.

"Premium tax credit" has the same definition for purposes of this chapter as defined in 26 C.F.R. 1.36B-1 through 1.36B-5.

"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.

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);~~

(f) A qualified health plan (QHP) purchased through the health benefit exchange with a premium tax credit; or

(g) A plan that is the legal obligation of a noncustodial parent, or any other liable party under RCW 74.09.185.

(4) Exception to comprehensive insurance requirement:

(a) The agency allows an exception to the comprehensive health insurance requirement for clients enrolled in the PPP based on a plan as described in subsection (3)(c), (d), and (e) of this section when the client:

(i) Has been enrolled in the same plan continuously since January 1, 2012;

(ii) Was approved for and continuously enrolled in the PPP since January 1, 2012; and

(iii) Remained eligible for a medicaid program identified in subsection (1)(a) of this section continuously since January 1, 2012.

(b) If a client's medicaid eligibility or their enrollment in their health plan changes or terminates, the exception to the comprehensive health insurance requirement terminates.

(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 and 182-538A 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.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

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~~), or alternative benefit plan scope of coverage.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

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:

(a) Up to an eligible person's employer-sponsored group health insurance plan premium obligation; and

(b) 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, or the alternative benefit plan scope of coverage.

AMENDATORY SECTION (Amending WSR 17-03-014, filed 1/5/17, effective 3/1/17)

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)) premium payment plan (PPP) may provide cost-sharing reimbursement ((limited to services for the medicaid-eligible client or their parents)) to nonmedicaid-eligible parents for medicaid-covered services under this section.