



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 27, 2020
TIME: 8:00 AM

WSR 20-06-034

Agency: Health Care Authority

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (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 amending WAC 182-531-1550 to remove coverage of hysteroscopic sterilizations. The Federal Drug Administration restricted the sale and distribution of the Class III contraceptive device used in this procedure.

Citation of rules affected by this order:

New:
Repealed:
Amended: 182-531-1550
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 20-03-028 on January 7, 2020 (date).
Describe any changes other than editing from proposed to adopted version: N/A

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:
TTY:
Email:
Web site:
Other:

**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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___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

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

Date Adopted: February 27, 2020	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-531-1550 Sterilization physician-related services. (1)

For purposes of this section, sterilization is any medical procedure, treatment, or operation for the purpose of rendering a client permanently incapable of reproducing.

Hysterectomy results in sterilization and is not covered by the medicaid agency solely for that purpose. (See WAC 182-531-0150 and 182-531-0200 for more information about hysterectomies.)

STERILIZATION

(2) The ((~~medicaid~~)) agency covers sterilization when all of the following apply:

(a) The client is at least eighteen years of age at the time an agency-approved consent form is signed;

(b) The client is a mentally competent individual;

(c) The client participates in a medical assistance program (see WAC 182-501-0060);

(d) The client has voluntarily given ((~~informed consent~~)) informed consent; and

(e) The date the client signed a sterilization consent is at least thirty days and not more than one hundred eighty days before the date of the sterilization procedure.

(3) Any medicaid provider who is licensed to do sterilizations within their scope of practice may provide vasectomies and tubal ((~~ligations~~)) sterilizations to any medicaid client. ((~~See subsections (10), (11), and (12) of this section for additional qualifications of providers performing hysteroscopic sterilizations.~~))

(4) The ((~~medicaid~~)) agency requires at least a seventy-two hour waiting period rather than the usual thirty-day waiting period for sterilization in either of the following circumstances:

(a) At the time of a premature delivery when the client gave consent at least thirty days before the expected date of delivery. (The expected date of delivery must be documented on the consent form.)

(b) For emergency abdominal surgery. (The nature of the emergency must be described on the consent form.)

(5) The ((~~medicaid~~)) agency waives the thirty-day consent waiting period for sterilization when the client requests that sterilization be performed at the time of delivery and completes a sterilization consent form. One of the following circumstances must apply:

(a) The client became eligible for ((~~medical assistance~~)) medical assistance during the last month of pregnancy;

(b) The client did not obtain medical care until the last month of pregnancy; or

(c) The client was a substance abuser during pregnancy, but is not using alcohol or illegal drugs at the time of delivery.

(6) The ((~~medicaid~~)) agency does not accept informed consent obtained when the client is:

(a) In labor or childbirth;

(b) In the process of seeking to obtain or obtaining an abortion;

or

(c) Under the influence of alcohol or other substances, including pain medications for labor and delivery, that affects the client's state of awareness.

(7) The ((medicaid)) agency has certain consent requirements that the provider must meet before the agency reimburses sterilization of an institutionalized client or a client with mental incompetence. The agency requires both of the following:

(a) A court order, which includes both a statement that the client is to be sterilized, and the name of the client's legal guardian who will be giving consent for the sterilization; and

(b) A sterilization consent form signed by the legal guardian, sent to the agency at least thirty days before the procedure.

(8) The ((medicaid)) agency reimburses epidural anesthesia in excess of the six-hour limit for deliveries if sterilization procedures are performed in conjunction with or immediately following a delivery.

(a) For reimbursement, anesthesia time for sterilization is added to the time for the delivery when the two procedures are performed during the same operative session.

(b) If the sterilization and delivery are performed during different operative sessions, the anesthesia time is calculated separately.

(9) The ((medicaid)) agency reimburses all attending providers for the sterilization procedure only when the provider submits an agency-approved and complete consent form with the claim for reimbursement. ((See subsections (10), (11), and (12) of this section for additional coverage criteria for hysteroscopic sterilizations.))

(a) The physician must complete and sign the physician statement on the consent form within thirty days of the sterilization procedure.

(b) The agency reimburses attending providers after the procedure is completed.

~~((HYSTEROSCOPIC STERILIZATIONS~~

~~(10) The medicaid agency pays for hysteroscopic sterilizations when the following additional criteria are met:~~

~~(a) A device covered by the agency is used.~~

~~(b) The procedure is predominately performed in a clinical setting, such as a physician's office, without general anesthesia and without the use of a surgical suite; and is covered according to the corresponding agency fee schedule.~~

~~(c) If determining that it is medically necessary to perform the procedure in an inpatient rather than outpatient setting, a provider must submit clinical notes with the claim, documenting the medical necessity.~~

~~(d) The client provides informed consent for the procedure.~~

~~(e) The hysteroscopic sterilization is performed by an approved provider who:~~

~~(i) Has a core provider agreement with the agency;~~

~~(ii) Is nationally board certified in obstetrics and gynecology (OB-GYN);~~

~~(iii) Is privileged at a licensed hospital to do hysteroscopies;~~

~~(iv) Has successfully completed the manufacturer's training for the device covered by the agency;~~

~~(v) Has successfully performed a minimum of twenty hysteroscopies; and~~

~~(vi) Has established screening and follow-up protocols for clients being considered for hysteroscopic sterilization.~~

~~(11) To become approved for hysteroscopic sterilizations, interested providers must send the medicaid agency-approved vendor, identified in the agency's billing instructions, the following:~~

- ~~(a) Documentation of successful completion of the manufacturer's training;~~
 - ~~(b) Documentation demonstrating privilege at a licensed hospital to perform hysteroscopies;~~
 - ~~(c) Documentation attesting to having successfully performed twenty or more hysteroscopies;~~
 - ~~(d) Evidence of valid National Board Certification; and~~
 - ~~(e) Office protocols for screening and follow-up.~~
- ~~(12) The provider will not be paid to perform the hysteroscopic procedure until the medicaid agency sends written approval to the provider.)~~