



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Health Care Authority, Washington Apple Health

- Preproposal Statement of Inquiry was filed as WSR 17-05-084; 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).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:**

WAC 182-531-1675 -- Gender Dysphoria Treatment Program

**Hearing location:**

Health Care Authority  
Cherry Street Plaza Building; Sue Crystal Conf Rm 106A&B  
626 - 8<sup>th</sup> Avenue, Olympia WA 98504

Metered public parking is available street side around building. A map is available at:  
[http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf)  
or directions can be obtained by calling: (360) 725-1000

Date: **June 27, 2017** Time: **10:00 a.m.**

**Date of intended adoption:** Not sooner than June 28, 2017  
(Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: HCA Rules Coordinator  
Address: PO Box 45504, Olympia WA, 98504-5504  
Delivery: 626 – 8<sup>th</sup> Avenue, Olympia WA 98504  
e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov)  
fax (360) 586-9727

by **5:00 pm on June 27, 2017**

**Assistance for persons with disabilities:** Contact Amber Lougheed by June 23, 2017  
e-mail: [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov) or (360) 725-1349  
  
TTY (800) 848-5429 or 711

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

These amendments:

- Simplify and clarify language, including but not limited to removing repetitive or unnecessary language, such as language that is located in other WACs and thus does not need to be duplicated in this WAC
- Add information on medical necessity for prior authorization
- Remove references to centers of excellence
- Remove unnecessary administrative processes for the client and provider, including but not limited to multiple attestation forms
- Revised language on covered services, noncovered services, and exception to rule.

**Reasons supporting proposal:** See purpose statement above.

**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:

**DATE**  
May 24, 2017

**NAME**  
Wendy Barcus

**SIGNATURE**

**TITLE**  
HCA Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: May 24, 2017**

**TIME: 10:53 AM**

**WSR 17-11-140**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** N/A

**Name of proponent:** Health Care Authority

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Amy Emerson	PO Box 42716, Olympia WA, 98504-2716	(360) 725-1348
Implementation.... Tonja Nichols	PO Box 45502, Olympia WA, 98504-5502	(360) 725-1658
Enforcement.....Tonja Nichols	PO Box 45502, Olympia WA, 98504-5502	360) 725-1658

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( )

fax ( )

e-mail

No. Explain why no statement was prepared.

The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

**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 ( )

e-mail

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.

**WAC 182-531-1675 Washington apple health—Gender dysphoria treatment program. (1) Overview of the gender dysphoria treatment program.**

(a) The medicaid agency covers the following services, consistent with the program rules described in Title 182 WAC, to treat gender dysphoria:

- (i) Medical services including, but not limited to:
  - (A) Presurgical and postsurgical hormone therapy;
  - (B) Prepuberty suppression therapy;
- (ii) Mental health services; and
- (iii) Surgical services including, but not limited to:
  - (A) Anesthesia;
  - (B) Labs;
  - (C) Pathology;
  - (D) Radiology;
  - (E) Hospitalization;
  - (F) Physician services; and

(G) Hospitalizations and physician services required to treat postoperative complications of procedures performed under component four.

(b) The agency's gender dysphoria treatment program has four components. The components are as follows:

(i) Component one - Initial assessment and diagnosis of gender dysphoria;

(ii) Component two - Mental health and hormone-related treatment;

(iii) Component three - Presurgical requirements; and

(iv) Component four - Gender reassignment surgery.

~~(c) The agency requires prior authorization ((is required)) for services ((provided)) covered in component four ((only. Any medicaid provider can refer a client to component one)). These components are not intended to be sequential and may run concurrently to meet the client's medical needs((. The components are as follows:~~

~~(i) Component one - Initial assessment and diagnosis of gender dysphoria;~~

~~(ii) Component two - Mental health and medical treatment;~~

~~(iii) Component three - Presurgical requirements for prior authorization for component four; and~~

~~(iv) Component four - Gender reassignment surgery)).~~

~~((e))~~ (d) All services under this program must be delivered by providers who meet the qualifications in subsection (2) of this section.

~~((d))~~ (e) The agency evaluates requests for clients ~~((under))~~ age ~~((twenty-one))~~ twenty and younger according to the early and periodic screening, diagnosis, and treatment (EPSDT) program described in chapter 182-534 WAC. Under the EPSDT program, a service may be covered if it is medically necessary, safe, effective, and not experimental.

~~((e))~~ (f) The agency covers transportation services under the provisions of chapter 182-546 WAC.

~~((f))~~ (g) Any out-of-state care, including a presurgical consultation, must be approved as an out-of-state service under WAC 182-501-0182.

(h) Covered gender dysphoria services will be authorized and paid for only when determined to be medically necessary. The agency reviews requests for covered services requiring prior authorization according to medicaid program rules, including the definition of medical necessity in WAC 182-500-0070 and the evidence-based authorization process in WAC 182-501-0165. The agency will consult the most recently published version of the World Professional Association for Transgender Health (WPATH) *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People*, or its equivalent, in conducting analysis.

**(2) Qualified health care providers for gender dysphoria treatment.**

(a) Providers must meet the qualifications outlined in chapter 182-502 WAC.

~~(b) ((Each provider must be recognized as an agency designated center of excellence (COE). COE is defined in WAC 182-531-0050. To be a COE, all providers must complete an agency form attesting that they:~~

~~(i) Possess knowledge about current community, advocacy, and public policy issues relevant to transgender people and their families (knowledge about sexuality, sexual health concerns, and the assessment and treatment of sexual disorders is preferred);~~

~~(ii) Endorse the *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7* as developed by the World Professional Association for Transgender Health (WPATH); and~~

~~(iii) Agree to provide services consistent with this section. The agency's forms are available online at <http://www.hca.wa.gov/medicaid/forms/Pages/index.aspx>.~~

~~(c)) Diagnosis ((in component one)) of gender dysphoria must be made or confirmed by a ((COE)) provider who is a board certified physician, a psychologist, a board certified psychiatrist, ((or)) a licensed advanced registered nurse practitioner (ARNP), or a licensed master's level clinician (e.g., licensed mental health counselor, licensed marriage and family therapist, or licensed independent clinical social worker).~~

~~((d)) (c) Mental health professionals who provide ((component two)) mental health treatment ((described in subsection (4)(d)) in component two of this section, or who perform the psychosocial evaluation ((described in subsection (5)(a)(iii)) in component three of this section must:~~

~~(i) Meet the requirements described in WAC 182-531-1400; and~~

~~(ii) ((Sign the agency's form (HCA 18-493) attesting that they:~~

~~(A) Are competent in using the *Diagnostic Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5) and the *International Classification of Diseases* for diagnostic purposes;~~

~~(B) Are able to recognize and diagnose coexisting mental health conditions and to distinguish these from gender dysphoria;~~

~~(C) Have completed supervised training in psychotherapy or counseling;~~

~~(D) Are knowledgeable of gender nonconforming identities and expressions, and the assessment and treatment of gender dysphoria; and~~

~~(E) Have completed continuing education in the assessment and treatment of gender dysphoria. This may include attending relevant professional meetings, workshops, or seminars; obtaining supervision from a mental health professional with relevant experience; or participating in research related to gender nonconformity and gender dysphoria; and~~

~~(iii))~~ Be a ~~((board certified psychiatrist, a psychologist, or a))~~ licensed:

(A) Psychiatrist;

(B) Psychologist;

(C) Psychiatric ARNP;

~~((B))~~ (D) Psychiatric mental health nurse practitioner;

~~((C))~~ (E) Mental health counselor;

~~((D))~~ (F) Independent clinical social worker;

~~((E))~~ (G) Advanced social worker; or

~~((F))~~ (H) Marriage and family therapist.

~~((e))~~ (d) Any surgeon who performs gender reassignment surgery must(~~(+~~

~~(i))~~ be a board certified ~~((or board qualified))~~:

~~((A))~~ (i) Urologist;

~~((B))~~ (ii) Gynecologist;

~~((C))~~ (iii) Plastic surgeon;

~~((D))~~ (iv) Cosmetic surgeon; or

~~((E))~~ (v) General surgeon(~~(+~~

~~(ii)~~ Have a valid medical license in the state where the surgery is performed; and

~~(iii)~~ Sign the agency's form (HCA 18 492) attesting to specialized abilities in genital reconstructive techniques and produce documentation showing that they have received supervised training with a more experienced surgeon).

~~((f))~~ (e) Any medical provider managing hormone therapy, androgen suppression, or puberty suppression for clients diagnosed with gender dysphoria must(~~(+~~

~~(i))~~ be either of the following:

(A) A licensed(~~(,~~) and board certified(~~(,~~ or board qualified)):

(I) Endocrinologist;

(II) Family practitioner;

(III) Internist;

(IV) Obstetrician/gynecologist;

(V) Pediatrician;

(VI) Naturopath; or

(B) A licensed:

(I) ARNP; or ~~((a licensed))~~

(II) Physician's assistant(~~(+~~ and

~~(ii)~~ Sign the agency's form (HCA 18 494) attesting to specialized abilities managing hormone therapy in treating gender dysphoria. The specialized abilities may be proved by producing documentation showing supervised training with a more experienced physician, and attesting attendance at relevant professional meetings, workshops, or seminars).

(3) **Component one - Initial assessment and diagnosis of gender dysphoria.** The purpose of component one is to assess and diagnose the client, and refer the client to other qualified providers as needed for additional medically necessary services. A health professional who meets the qualifications in subsection (2)(~~(e))~~ of this section must assess the client and:

(a) Confirm the diagnosis of gender dysphoria as defined by the *Diagnostic Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5);

(b) Determine the gender dysphoria is not the result of another mental or physical health condition, and refer the client to other specialists if other health conditions are indicated;

(c) Develop an individualized treatment plan for the client;

(d) Refer the client to qualified providers for the component two and component three services ~~((described in subsection (4) of this section; and~~

~~(e) Assist and support the client in navigating component two and component three requirements, and provide services))~~ consistent with WPATH guidelines and WAC 182-531-1675.

**(4) Component two - Mental health and ~~((medical))~~ hormone-related treatment.**

(a) Clients enrolled with an agency managed care organization (MCO) plan are subject to the respective plan's policies and procedures for coverage of ~~((these))~~ component two services.

(b) Mental health and ~~((medical))~~ hormone-related treatment are covered after a health professional who meets the qualifications in subsection (2)~~((e))~~ of this section has diagnosed, or confirmed the diagnosis of, gender dysphoria as defined by the DSM-5 criteria.

(c) ~~((Medical))~~ Hormone-related treatment covered in component two ~~((covers))~~ includes androgen suppression, puberty suppression, continuous hormone therapy, and laboratory testing to monitor the safety of hormone therapy. Some ~~((of these))~~ prescriptions may be subject to prior authorization as required by pharmacy policy in chapter 182-530 WAC. ~~((Medical treatment must be prescribed by a COE provider who meets the requirements in subsection (2)(a), (b), and (f) of this section.))~~

(d) The agency covers mental health treatment for the client and the client's spouse, parent, guardian, child, or person with whom the client has a child in common if the treatment is:

(i) Medically necessary;

(ii) Provided according to the provisions of WAC 182-531-1400; and

(iii) Provided by a health professional who meets the requirements in subsection (2)~~((a), (b), and (d))~~ of this section.

**(5) Component three - Presurgical requirements.** ~~((a))~~ To proceed to component four, gender reassignment surgery, ~~((the))~~ all of the presurgical requirements in component three must be satisfied.

(a) A client must:

(i) Be age eighteen or older, unless allowed under EPSDT ~~((as described in subsection (1)(d) of this section));~~

(ii) Be competent to give consent for treatment and have this competency documented in clinical records; and

(iii) Undergo a comprehensive psychosocial evaluation that must do all of the following:

(A) Be conducted by two mental health professionals for genital surgery and one mental health professional for chest surgery. These mental health professionals must meet the qualifications described in subsection (2)~~((d))~~ of this section.

(B) Confirm the diagnosis of gender dysphoria, document that professionals performing the evaluation believe the client is a good candidate for gender reassignment surgery, and document that surgery is the next reasonable step in the client's care.

(C) Evaluate the client for the presence of coexisting behavioral health conditions (substance abuse problems, or mental health illnesses), which could prevent the client from participating in gender dysphoria treatment including, but not limited to, gender reassignment surgery and postsurgical care.

(D) Document that any coexisting behavioral health condition is adequately managed.

(b) The surgeon who will perform the gender reassignment surgery ~~((and who))~~ must meet ~~((s))~~ the qualifications outlined in subsection (2) ~~((a), (b), and (e))~~ of this section, ~~((must))~~ complete a presurgical consultation ~~((. When the presurgical consultation is completed, the surgeon must))~~, and forward the report of the consultation to the other treatment team members.

(c) The client must have received continuous hormone therapy as required by the treatment plan to meet treatment objectives ~~((. For exceptions, see subsection (6)(b) of this section))~~, unless there is a documented medical contraindication to continuous hormone therapy.

(d) The client must have lived in a gender role congruent with the client's gender identity immediately preceding surgery as required by the treatment plan to meet treatment objectives. ~~((For exceptions, see subsection (6)(b) of this section.))~~

(e) The client's medical record must document that the client met the requirements in (a) through (d) of this subsection.

(f) ~~((A member of the treatment team))~~ The surgeon must write a referral letter and submit it to the agency along with the prior authorization request for surgery. The contents of the referral letter or its attachments must include:

(i) Results of the client's psychosocial evaluation ~~((, as described in (a)(iii) of this subsection))~~;

(ii) Documentation that any coexisting behavioral health condition is adequately managed;

(iii) A description of the relationship between the mental health professionals and the client, including the duration of the professional relationship, and the type of evaluation and therapy or counseling to date;

(iv) A brief description of the clinical justification supporting the client's request for surgery;

(v) An assessment ~~((and attestation))~~ that the provider believes the client is able to comply with the postoperative requirements, has the capacity to maintain lifelong changes, and will comply with regular follow up;

(vi) A statement about the client's adherence to the medical and mental health treatment plan;

(vii) A description of the outcome of the client's hormone therapy;

(viii) ~~((A copy of the client's signed informed consent according to the requirements under WAC 182-531-1550, or written))~~ Acknowledgment that the provider has informed the client of the permanent impact on male and female reproductive capacity ~~((if WAC 182-531-1550 is not applicable))~~;

(ix) A statement that all the members of the treatment team will be available to coordinate or provide postoperative care as needed;

(x) A description of the surgical plan ~~((. See subsection (6)(d) and (e) of this section, covered and noncovered procedures. The description))~~ which must:

(A) List all planned surgical procedures, including any listed in subsection (6) ~~((e))~~ of this section, with clinical justification; and

(B) Provide a timeline of surgical stages if clinically indicated; ~~((and))~~

(xi) Signatures from the following treatment team members:

(A) The two mental health professionals for genital surgery and one mental health professional for chest surgery who completed the

~~((responsibilities described)) requirements in subsections (4)((d)) and (5) of this section ((and (a)(iii) of this subsection));~~

(B) The medical provider who has managed the care or prescribed the hormone therapy; and

(C) Any surgeon performing the procedures ~~((; and~~

~~(D) The client)).~~

**(6) Component four - Gender reassignment surgery.**

(a) The agency requires prior authorization for all services covered in component four. Covered services will be authorized according to program rules, including the definition of medical necessity in WAC 182-500-0070 and the evidence-based authorization process in WAC 182-501-0165. Subsection (5) of this section lists the documentation that is required to be submitted with the authorization requests. ~~((Surgeries are not required to be completed at the same time. Surgeries may be performed in progressive stages.))~~

(b) If the client fails to complete and satisfy all of the requirements in subsection (5) of this section, the agency will not authorize gender reassignment surgery ~~((unless the clinical decision-making process is provided in the referral letter and attachments described in subsection (5)(f) of this section.~~

~~(c) A client preparing for gender reassignment surgery must be cared for by a treatment team consisting of:~~

~~(i) One of the mental health professionals described in subsection (2)(d) of this section, if mental health services are part of the treatment plan;~~

~~(ii) The medical provider who managed the medical care in component two and component three; and~~

~~(iii) Any surgeon performing the)) procedures in component four.~~

~~((d)) (c) In component four, the agency covers the following procedures ~~((in component four with prior authorization)) only:~~~~

(i) Abdominoplasty;

(ii) ~~((Blepharoplasty;)) Blepharoplasty;~~

(iii) Breast reconstruction (male to female);

(iv) Bilateral mastectomy with or without chest reconstruction;

(v) Cliteroplasty;

(vi) Colovaginoplasty;

(vii) Colpectomy;

(viii) Genital surgery;

(ix) Genital electrolysis as required as part of the genital surgery;

(x) Hysterectomy;

(xi) Labiaplasty;

(xii) Laryngoplasty;

(xiii) Metoidioplasty;

(xiv) Orchiectomy;

(xv) Penectomy;

(xvi) Phalloplasty;

(xvii) Placement of testicular prosthesis;

(xviii) Rhinoplasty;

(xix) Salpingo-oophorectomy;

(xx) Scrotoplasty;

(xxi) Urethroplasty;

(xxii) Vaginectomy; and

(xxiii) Vaginoplasty.

~~((e) For the purposes of this section, the agency will review on a case by case basis and may pay for)) (d) The following are noncovered services ~~((under exception to rule)):~~~~



- (i) Cosmetic procedures and services:
  - (A) Brow lift;
  - (B) Calf implants;
  - (C) Cheek/malar implants;
  - (D) Chin/nose implants;
  - (E) Collagen injections;
  - (F) Drugs for hair loss or growth;
  - (G) Facial or trunk electrolysis, except for the limited electrolysis described in (d)(ix) of this subsection;
  - (H) Facial feminization;
  - (I) Face lift;
  - (J) Forehead lift;
  - (K) Hair transplantation;
  - (L) Jaw shortening;
  - (M) Lip reduction;
  - (N) Liposuction;
  - (O) Mastopexy;
  - (P) Neck tightening;
  - (Q) Pectoral implants;
  - (R) Reduction thyroid chondroplasty;
  - (S) Removal of redundant skin;
  - (T) Suction-assisted lipoplasty of the waist; and
  - (U) Trachea shave;
- (ii) Voice modification surgery; and
- (iii) Voice therapy.

~~((f)) (e) The agency evaluates a request for ((any)) an exception to rule for a noncovered service ((listed in (e) of this subsection as an exception to rule)) on a case-by-case basis under the provisions of WAC 182-501-0160. ((The justification included in the surgical plan for any of the procedures listed in (e) of this subsection may be recognized by the agency as meeting the documentation requirements of WAC 182-501-0160.))~~