



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) July 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 adopting these rules to implement a newly funded Foundational Community Supports Program that includes benefits to clients for supportive housing and supported employment services. The agency is also adding a definition for "Medicaid transformation waiver" to WAC 182-500-0070.

Citation of existing rules affected by this order:

Repealed:
 Amended: 182-500-0070
 Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160; Second Substitute Senate Bill (2SSB) 6312, Chapter 225, Laws of 2014, 63rd Legislature, 2014 Regular Session, Sec. 9, (1)(i); and Second Engrossed Substitute House Bill (2ESHB) 2376, Chapter 36, Laws of 2016, 65th Legislature, 2016 1st Special Session, Sec. 213, (1)(f) and (g)

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-08-078 on April 4, 2017.
 Describe any changes other than editing from proposed to adopted version: See attached.

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

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

Date adopted: May 24, 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: May 24, 2017
TIME: 10:10 AM
WSR 17-11-136

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____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	<u>6</u>	Amended	<u>1</u>	Repealed	_____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New	_____	Amended	_____	Repealed	_____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 in 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	_____	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	<u>6</u>	Amended	<u>1</u>	Repealed	_____

WAC 182-559-100 (4)(c):

Added CFR reference:

(c) Post tenancy, in settings consistent with home and community-based services, as defined in 42 C.F.R. Sec. 441.530, such as those that:

WAC 182-559-100 (7):

Added CFR reference and deleted subsections (a) and (b) as settings for providing supported employment services:

(7) Supported employment services must be provided in settings consistent with settings defined in 42 C.F.R. 441.530(a)(1)(i-v) and (a)(2)÷

~~(a) In an integrated setting of the client's choice; and~~

~~(b) In a manner that ensures the client's right of privacy, dignity, respect, and freedom from coercion and restraint.~~

WAC 182-559-300 (1)(c):

Removed incorrect cross reference:

(c) Be assessed by a qualified provider and determined to have a functional need, ~~as described in subsection (4) of this section~~, for the services; and

WAC 182-559-300 (5):

Removed provision that the agency may phase-in the population eligibility criteria:

(5) In order to ensure the demand for services remains within available funds, the medicaid agency may÷

~~(a) Phase in the population eligibility criteria identified in subsections (1)(a) through (d) and (2)(a) through (c) of this section; or~~

~~(b) Impose impose enrollment wait lists for services.~~

WAC 182-500-0070 Medical assistance definitions—M. "Medicaid" means the federal medical aid program under Title XIX of the Social Security Act that provides health care to eligible people.

"Medicaid agency" means the state agency that administers the medicaid program. The Washington state health care authority (HCA) is the state's medicaid agency.

"Medicaid transformation project" refers to the demonstration granted to the state by the federal government under section 1115 of the Social Security Act. Under this demonstration, the federal government allows the state to engage in a five-year demonstration to support health care systems, to implement reform, and to provide new targeted medicaid services to eligible clients with significant needs.

"Medical assistance" is the term the agency and its predecessors use to mean all federal or state-funded health care programs, or both, administered by the agency or its designees. Medical assistance programs are referred to as Washington apple health.

"Medical care services (MCS)" means the limited scope health care program financed by state funds for clients who are eligible for the aged, blind, or disabled (ABD) cash assistance (see WAC 388-400-0060) or the housing and essential needs (HEN) referral program (see WAC 388-400-0065) and not eligible for other full-scope programs due to their citizenship or immigration status.

"Medical consultant" means a physician employed by or contracted with the agency or the agency's designee.

"Medical facility" means a medical institution or clinic that provides health care services.

"Medical institution" See "institution" in WAC 182-500-0050.

"Medical services card" or **"services card"** means the card the agency issues at the initial approval of a person's Washington apple health benefit. The card identifies the person's name and medical services identification number but is not proof of eligibility. The card may be replaced upon request if it is lost or stolen, but is not required to access health care through Washington apple health.

"Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purposes of this section, "course of treatment" may include mere observation or, where appropriate, no medical treatment at all.

"Medically needy (MN)" or **"medically needy program (MNP)"** means the state and federally funded health care program available to specific groups of people who would be eligible as categorically needy (CN), except their monthly income is above the CN standard. Some long-term care clients with income or resources above the CN standard may also qualify for MN.

"Medically needy income level (MNIL)" means the standard the agency uses to determine eligibility under the medically needy program. See WAC 182-519-0050.

"Medicare" is the federal government health insurance program under Titles II and XVIII of the Social Security Act. For additional information, see www.Medicare.gov.

"Medicare assignment" means the process by which a provider agrees to provide services to a medicare beneficiary and accept medicare's payment for the services.

"Medicare cost-sharing" means out-of-pocket medical expenses related to services provided by medicare. For clients enrolled in medicare, cost-sharing may include Part A and Part B premiums, co-insurance, deductibles, and copayments for medicare services. See chapter 182-517 WAC.

"Minimum essential coverage" means coverage under 26 U.S.C. Sec. 5000A(f).

"Modified adjusted gross income (MAGI)" means the adjusted gross income as determined by the Internal Revenue Service under the Internal Revenue Code of 1986 (IRC) increased by:

- (1) Any amount excluded from gross income under 26 U.S.C. Sec. 911;
- (2) Any amount of interest received or accrued by the client during the taxable year which is exempt from tax; and
- (3) Any amount of Title II Social Security income or Tier 1 railroad retirement benefits excluded from gross income under 26 U.S.C. Sec. 86. See chapter 182-509 WAC for additional rules regarding MAGI.

Chapter 182-559 WAC
FOUNDATIONAL COMMUNITY SUPPORTS PROGRAM

NEW SECTION

WAC 182-559-100 Foundational community supports program—General. (1) Under the authority of the medicaid transformation project, RCW 71.24.385, and subject to available funds, the medicaid agency covers targeted foundational community supports to eligible medicaid beneficiaries, which include the following benefits:

- (a) Supportive housing services; and
 - (b) Supported employment services.
- (2) Supportive housing services may include:

(a) One-time community transition services to eligible clients moving from institutional to community settings and those who meet an institutional level of care, such as:

- (i) Security deposits;
- (ii) Essential furnishings;
- (iii) Moving expenses;
- (iv) Set-up fees or deposits for utility or service access; and
- (v) Health and safety assurances such as pest eradication, allergen control, or a one-time cleaning prior to occupancy.

(b) Ongoing community support services, including:

(i) Individual housing transition services which provide direct support to eligible clients.

(ii) Individual housing and tenancy support services that promote housing success, foster community integration and inclusion, develop natural support networks, and assist clients to maintain their housing.

(3) Supportive housing services do not include rental support or other room and board related expenses.

(4) Supportive housing services must be provided:

(a) In an integrated setting of the client's choice; and

(b) In a manner that ensures the client's individual right of privacy, dignity, respect, and freedom from coercion and restraint;

(c) Post tenancy, in settings consistent with home and community-based services, as defined in 42 C.F.R. Sec. 441.530, such as those that:

(i) Do not have the qualities of an institution;

(ii) Are not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;

(iii) Are not on the grounds of, or immediately adjacent to a public institution;

(iv) Do not have the effect of isolating the client from community members who are not receiving medicaid services; and

(v) Are not a licensed residential care facility such as an adult family or assisted living facility.

(5) Supported employment, such as individual placement and support (IPS) services, are individualized and may include any combination of the following services:

- (a) Vocational/job related discovery and assessment;

- (b) Person-centered employment planning;
 - (c) Career advancement services;
 - (d) Individualized job development and placement;
 - (e) Negotiation with and follow-along supports to employers;
 - (f) Job analysis;
 - (g) Job carving;
 - (h) Job coaching;
 - (i) Benefits support, training, and planning;
 - (j) Transportation (only in conjunction with the delivery of an authorized service);
 - (k) Asset development; or
 - (l) Other workplace support services including services not specifically related to job skill training that enable the program participant to be successful in integrating into the job setting.
- (6) Supported employment services do not include wages or wage enhancements for clients.
- (7) Supported employment services must be provided in settings consistent with settings defined in 42 C.F.R. 441.530(a)(1)(i) through (v) and (a)(2).

NEW SECTION

WAC 182-559-150 Foundational community supports program—Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

"Community transition services" means one-time supports that cover certain costs necessary for a client to transition from an institution to a community-based setting, or prevent a client's placement in an institution.

"Individual placement and support (IPS)" refers to an evidence-based approach to supported employment services based on the following principles:

- (a) Services are open to all eligible clients who wish to work;
- (b) Competitive employment is the goal;
- (c) Integrated with other services provided to the client;
- (d) Personalized benefits planning;
- (e) Job search begins soon after the client expresses interest in working;
- (f) Job search based on client preferences;
- (g) Supports are not time-limited; and
- (h) Client preferences are honored.

"Supported employment" means coordination with state and local entities to provide assistance and support, such as skills assessment, training, education and counseling to eligible clients who want to work.

"Supportive housing" means active search and promotion of access to, and choice of, safe and affordable housing that is appropriate to the client's age, culture and needs. This includes:

- (a) Providing services to eligible clients who are homeless or at risk of becoming homeless through outreach, engagement and coordination of services with shelter and housing;

(b) Ensuring the availability of community support services, with an emphasis on supporting clients in their own home or where they live in the community; and

(c) Coordinating with public housing entities, homeless continuums of care and affordable housing developers.

NEW SECTION

WAC 182-559-200 Foundational community supports program—Eligible providers. (1) Providers of supportive housing and supported employment services under this authority must be:

(a) Health care professionals, entities, or contractors as defined by WAC 182-502-0002;

(b) Agencies, centers, or facilities as defined by WAC 182-502-0002;

(c) Health home providers as described in WAC 182-557-0050;

(d) Behavioral health providers licensed and certified according to chapter 388-877 WAC; or

(e) Housing, employment, social service, or related agencies with at least one year of demonstrated experience and ability to provide supportive housing, supported employment, or equivalent services.

(2) Providers of supportive housing or supported employment services must either:

(a) Obtain a core provider agreement in accordance with WAC 182-502-0005;

(b) Enroll with the medicaid agency as a nonbilling provider in accordance with WAC 182-502-0006; or

(c) Be qualified to bill for aging and long-term support administration services to provide supportive housing or supported employment services.

NEW SECTION

WAC 182-559-300 Foundational community supports program—Eligibility. (1) To be eligible for supportive housing services, a client must:

(a) Be age eighteen or older;

(b) Be eligible for Washington apple health (medicaid);

(c) Be assessed by a qualified provider and determined to have a functional need for the services; and

(d) Meet one of the following population criteria:

(i) Be chronically homeless as defined by the federal Department of Housing and Urban Development;

(ii) Have frequent or lengthy institutional contact;

(iii) Have frequent or lengthy stays at adult residential care facilities as defined by WAC 388-110-020 and 246-337-005;

(iv) Have frequent turnover of in-home caregivers as defined by WAC 388-106-0040; or

(v) Have a predictive risk score of 1.5 or above. See WAC 182-557-0225.

(2) To be eligible for community transition services, a client must meet the criteria described in subsection (1) of this section and be determined by a qualified provider to meet an institutional level of care standard for admission to either:

(a) A nursing facility, as described in WAC 388-106-0355; or

(b) An inpatient medical hospital, not including institutes for mental disease (IMD), as described in WAC 182-513-1320.

(3) To be eligible for supported employment services, a client must:

(a) Be age sixteen or older;

(b) Be eligible for apple health (medicaid);

(c) Desire to obtain employment;

(d) Be assessed by a qualified provider and determined to have a functional need for the services; and

(e) Meet one of the following population criteria:

(i) Be enrolled in the aged, blind and disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-400-0065;

(ii) Be diagnosed with at least one of the following:

(A) A severe and persistent mental illness;

(B) Substance use disorder with multiple episodes of treatment;

(C) Co-occurring mental health and substance use disorders.

(iii) Be age sixteen through twenty-four with a behavioral health diagnosis; or

(iv) Be receiving long-term services and supports as defined in chapter 388-106 WAC.

(4) Clients who meet the eligibility criteria for both supportive housing and supported employment are able to receive both services concurrently.

(5) In order to ensure the demand for services remains within available funds, the medicaid agency may impose enrollment wait lists for services.

NEW SECTION

WAC 182-559-400 Foundational community supports program—Payment. The medicaid agency pays for supportive housing and supported employment described in WAC 182-559-100 when no other public funds are already dedicated to providing comparable services to the client, unless the provider can demonstrate that the client requires services that are:

(1) Outside the scope of services provided by the program already in place or for which the client is otherwise eligible; and

(2) Within the scope of the services identified as reimbursable in this section.

NEW SECTION

WAC 182-559-500 Foundational community supports program—Limitation of scope of benefits. Nothing in this chapter shall be construed

as providing a legal right to any individual to any of the services referenced in this chapter. The services provided under this chapter are strictly limited to the authority granted to the state under the medicaid transformation project and available funds, as determined solely by the authority. Nothing in this section is intended to limit the right of an applicant or a beneficiary to request an administrative hearing under applicable law.