



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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FILED

DATE: September 28, 2023

TIME: 10:58 AM

WSR 23-20-051

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 23-12-049 and 23-14-092 ; 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) 182-504-0015, Washington apple health – Certification periods for categorically needy programs; 182-504-0035, Washington apple health – Renewals; 182-505-0210, Eligibility for children

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 7, 2023	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place.	To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_EICEeDr8Q0ap3784rr7LVQ If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of intended adoption: Not earlier than November 8, 2023 (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) November 7, 2023 by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson

Phone: 360-725-1349

Fax: 360-586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: Johanna.larson@hca.wa.gov

Other:

By (date) October 27, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WAC 182-504-0035 to allow for telephonic eligibility renewals. The agency is amending WACs 182-504-0015, 182-504-0035, and 182-505-0210 to provide continuous enrollment in Medicaid through age five for certain children.

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; Section 211(36), chapter 475, Laws of 2023 (ESSB 5187)

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: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Health Care Authority

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Brian Jensen	PO Box 42716, Olympia, WA 98504-2716	360-725-0815
Implementation:	Shaunie Long	PO Box 42722, Olympia, WA 98504-2716	360-725-1343
Enforcement:	Shaunie Long	PO Box 42722, Olympia, WA 98504-2716	360-725-1343

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 and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:
- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: The proposed rules pertain to client program eligibility and do not impose costs on businesses.

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: September 28, 2023

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-504-0015 Washington apple health—Certification periods for categorically needy programs. (1) A certification period is the period of time we determine that you are eligible for a categorically needy (CN) Washington apple health program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues through the end of the last month of the certification period.

(2) ~~((For a))~~ Newborn ~~((eligible for apple health, the certification period))~~ coverage begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) If you are eligible for apple health based on pregnancy, the certification period continues through the last day of the month the pregnancy ends. After-pregnancy coverage begins the first day of the month, following the end of the pregnancy, and ends the last day of the 12th month from the time after-pregnancy coverage began.

(4) If you are newly eligible for apple health coverage and had a pregnancy end within the last 12 months, your certification period for after-pregnancy coverage:

(a) Begins the first day of the month you are eligible; and

(b) Ends the last day of the 12th month following the end of your pregnancy.

(5) If you are eligible for the refugee program, the certification period ends at the end of the 12th month following your date of entry to the United States.

(6) If you are a child under age six receiving apple health for kids without a premium, your coverage ends the last day of the month of your sixth birthday.

(7) If you are eligible for newborn coverage, your coverage continues through the last day of the month of your first birthday. Apple health for kids coverage begins automatically on the first day of the month after your newborn coverage ends and ends the last day of the month of your sixth birthday.

(8) For all other CN coverage, the certification period is 12 months.

~~((7))~~ (9) If you are a child, eligibility is continuous throughout the certification period regardless of a change in circumstances, unless a required premium (described in WAC 182-505-0225) is not paid for three consecutive months, or you:

(a) Turn age 19;

(b) Move out-of-state; or

(c) Die.

~~((8))~~ (10) When you turn 19, the certification period ends after the redetermination process described in WAC 182-504-0125 is completed, even if the 12-month period is not over, unless:

(a) You are receiving inpatient services (described in WAC 182-514-0230) on the last day of the month you turn 19;

(b) The inpatient stay continues into the following month or months; and

(c) You remain eligible except for turning age 19.

~~((9))~~ (11) A retroactive certification period is described in WAC 182-504-0005.

~~((10))~~ (12) Coverage under premium-based programs included in apple health for kids as described in chapter 182-505 WAC begins no sooner than the month after creditable coverage ends.

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-504-0035 Washington apple health—Renewals. (1) For all Washington apple health (WAH) programs, the following applies:

(a) You are required to complete a renewal of eligibility at least every ~~((twelve))~~ 12 months with the following exceptions:

(i) If you are eligible for WAH medically needy with spenddown, then you must complete a new application at the end of each three- or six-month base period;

(ii) If you are eligible for WAH alien emergency medical, then you are certified for a specific period of time to cover emergency in-patient hospitalization costs only (see WAC 182-507-0115(8)); ~~((or))~~

(iii) If you are eligible for WAH refugee coverage, you must complete a renewal of eligibility after ~~((eight))~~ 12 months; or

(iv) If you are a child on apple health for kids without premiums, your first renewal is due the month of your sixth birthday.

(b) You may complete renewals online, by phone, or by paper application that you mail or fax to us (the agency or its designee).

(c) If your WAH is renewed, we decide the certification period according to WAC 182-504-0015.

(d) We review all eligibility factors subject to change during the renewal process.

(e) We redetermine eligibility as described in WAC 182-504-0125 and send you written notice as described in WAC 182-518-0005 before WAH is terminated.

(f) If you need help meeting the requirements of this section, we provide equal access services as described in WAC 182-503-0120.

(2) For programs based on modified adjusted gross income (MAGI) as described in WAC 182-503-0510:

(a) Sixty days prior to the end of the certification period:

(i) When information from electronic sources shows income is reasonably compatible (as defined in WAC 182-500-0095), we administratively renew your coverage (as defined in WAC 182-500-0010) for a new certification period and send you a notice of renewal with the information used. You are required to inform us if any of the information we used is wrong.

(ii) If we are unable to complete an administrative renewal (as defined in WAC 182-500-0010), you must give us a signed renewal in order for us to decide if you will continue to get WAH coverage beyond the current certification period.

(iii) We follow the requirements described in WAC 182-518-0015 to request any additional information needed to complete the renewal process or to terminate coverage for failure to renew.

(b) If your WAH coverage is terminated because you did not renew, you have ~~((ninety))~~ 90 days from the termination date to give us a completed renewal. If we decide you are still eligible to get WAH coverage, we will restore your WAH without a gap in coverage.

(3) For non-MAGI based programs (as described in WAC 182-503-0510):

(a) Forty-five days prior to the end of the certification period, we send notice with a renewal form (~~(to be completed, signed, and returned by)~~). You must renew before the end of the certification period by either calling the department of social and health services at the number listed on the form to renew by telephone, renew online at www.washingtonconnection.org, or mailing or delivering to the department of social and health services a signed renewal form with the information required by WAC 182-503-0005.

(b) We follow the requirements in WAC 182-518-0015 to request any additional information needed to complete the renewal process or to terminate coverage for failure to renew.

(c) To complete your renewal, you must give us all the other information requested on the application that is needed to determine your eligibility.

(d) If you are terminated for failure to renew, you have (~~thirty~~) 30 days from the termination date to submit a completed renewal. If still eligible, we will restore your WAH without a gap in coverage.

(4) If we determine that you are not eligible for renewal of your WAH coverage, we:

(a) Consider your eligibility for all other WAH programs before ending your WAH coverage; and

(b) Coordinate with the health benefit exchange any request for information that is necessary to determine your eligibility for:

(i) Other WAH programs; and

(ii) With respect to qualified health plans, health insurance premium tax credits (as defined in WAC 182-500-0045) and cost-sharing reductions (as defined in WAC 182-500-0020).

(5) We reconsider our decision that you are not eligible for WAH coverage without a new application from you when:

(a) We receive the information that we need to decide if you are eligible within (~~thirty~~) 30 days of the date on the termination notice; or

(b) You request a hearing within (~~ninety~~) 90 days of the date on the renewal denial letter and an administrative law judge (ALJ) or HCA review judge decides our decision was wrong (per chapter 182-526 WAC).

(6) If you disagree with our decision, you can ask for a hearing. If we decided that you are not eligible for renewal because we do not have enough information, the ALJ will consider the information we already have and anymore information you give us. The ALJ does not consider the previous absence of information or failure to respond in determining if you are eligible.

WAC 182-505-0210 Eligibility for children. (1) **General eligibility.** For purposes of this section, a child must:

(a) Be a Washington state resident under WAC 182-503-0520 and 182-503-0525;

(b) Provide a Social Security number under WAC 182-503-0515, unless exempt; and

(c) Meet program-specific requirements.

(2) **Deemed eligibility groups.** A child is automatically eligible for coverage without an application if the child meets the program-specific requirements in (a) through (c) of this subsection.

(a) **Newborn coverage.** A child under age one is eligible for categorically needy (CN) coverage if the birth parent was eligible for Washington apple health on the date of delivery:

(i) Including a retroactive eligibility determination; or

(ii) By meeting a medically needy (MN) spenddown liability with expenses incurred by the date of the newborn's birth:

~~((b))~~ (b) **Washington apple health for supplemental security income (SSI) recipients.** A child who is eligible for SSI is automatically eligible for CN coverage under WAC 182-510-0001.

(c) **Foster care coverage.** A child age ~~((twenty))~~ 20 and younger is eligible for CN coverage under WAC 182-505-0211 when the child is in foster care or receives subsidized adoption services. For children who age out of the foster care program, see WAC 182-505-0211(3).

(3) Continuous eligibility for children under age six. Children are eligible for Washington apple health continuous eligibility for children under age six when they:

(a) Have household income at or below 215 percent of the federal poverty level at the time of application; or

(b) Received coverage under subsection (5) of this section and are no longer eligible for deemed coverage under subsection (5)(b) or (c) of this section.

(4) **MAGI-based eligibility groups.** A child age ~~((eighteen))~~ 18 and younger is eligible for CN coverage based on modified adjusted gross income (MAGI):

(a) At no cost when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(a);

(b) With payment of a premium when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(b), and the child meets additional eligibility criteria in WAC 182-505-0215;

(c) Under chapter 182-514 WAC, if the child needs long-term care services because the child resides or is expected to reside in an institution, as defined in WAC 182-500-0050, for ~~((thirty))~~ 30 days or longer. An institutionalized child is eligible for coverage under the medically needy program if income exceeds the CN income standard for a person in an institution (special income level);

(d) Under WAC 182-505-0117, if a child is pregnant.

~~((4))~~ (5) **Non-MAGI-based children's programs.** The agency determines eligibility for the:

(a) Medically needy (MN) program according to WAC 182-510-0001(6) and 182-519-0100. A child age ~~((eighteen))~~ 18 and younger is eligible if the child:

(i) Is not eligible for MAGI-based coverage under subsection ~~((3))~~ (4) of this section;

(ii) Meets citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and
(iii) Meets any spenddown liability required under WAC 182-519-0110.

(b) **SSI-related program.** A child age ~~((eighteen))~~ 18 and younger is eligible for CN or MN SSI-related coverage if the child meets:

(i) SSI-related eligibility under chapter 182-512 WAC;
(ii) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and
(iii) Any MN spenddown liability under WAC 182-519-0110.

(c) **SSI-related long-term care program.**

(i) A child age ~~((eighteen))~~ 18 and younger is eligible for home and community based (HCB) waiver programs under chapter 182-515 WAC if the child meets:

(A) SSI-related eligibility under chapter 182-512 WAC;
(B) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and
(C) Program-specific age and functional requirements under chapters 388-106 and 388-845 WAC.

(ii) A child age ~~((eighteen))~~ 18 and younger who resides or is expected to reside in a medical institution as defined in WAC 182-500-0050 is eligible for institutional medical under chapter 182-513 WAC if the child meets:

(A) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d);
(B) Blindness or disability criteria under WAC 182-512-0050; and
(C) Nursing facility level of care under chapter 388-106 WAC.

~~((+5))~~ (6) **Alien emergency medical program.** A child age ~~((twenty))~~ 20 and younger who does not meet the eligibility requirements for a program described under subsections (2) through ~~((+4))~~ (5) of this section is eligible for the alien emergency medical (AEM) program if the child meets:

(a) The eligibility requirements of WAC 182-507-0110; and
(b) MN spenddown liability, if any, under WAC 182-519-0110.

~~((+6))~~ (7) **Other provisions.**

(a) A child residing in an institution for mental disease (IMD) as defined in WAC 182-500-0050(1) is not eligible for inpatient hospital services, unless the child is unconditionally discharged from the IMD before receiving the services.

(b) A child incarcerated in a public institution as defined in WAC 182-500-0050(4) is only eligible for inpatient hospital services.