



# PROPOSED RULE MAKING

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

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STATE OF WASHINGTON  
FILED

DATE: November 27, 2023

TIME: 9:06 AM

WSR 23-24-003

Agency: Health Care Authority

☒ Original Notice

☐ Supplemental Notice to WSR \_\_\_\_\_

☐ Continuance of WSR \_\_\_\_\_

☒ Preproposal Statement of Inquiry was filed as WSR 23-17-124 ; 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) 182-509-0220, Washington apple health – How resources are considered; 182-519-0050, Monthly income and countable resource standards for medically needy (MN)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 9, 2024	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place.	To attend the virtual public hearing, <a href="https://us02web.zoom.us/webinar/register/WN_Icj79gocS5G90rbyLRPI8g">you must register in advance</a> :  <a href="https://us02web.zoom.us/webinar/register/WN_Icj79gocS5G90rbyLRPI8g">https://us02web.zoom.us/webinar/register/WN_Icj79gocS5G90rbyLRPI8g</a>  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 January 10, 2024 (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](mailto:arc@hca.wa.gov)

Fax: 360-586-9727

Other:

By (date) January 9, 2024, 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](mailto:Johanna.larson@hca.wa.gov)

Other:

By (date) December 29, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WAC 182-509-0220 to specify that Medicare savings programs do not have a resource limit, which is consistent with section 211(40), chapter 475, Laws of 2023 and WAC 182-517-0100 as amended under WSR 22-21-043. The agency is amending WAC 182-519-0050 to correct a website address for the Washington apple health income and resource standards chart and update the medically needy income level and federal benefit rate.

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

<b>Is rule necessary because of a:</b>			
Federal Law?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, CITATION:			
<b>Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:</b> None			
<b>Type of proponent:</b> <input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental			
<b>Name of proponent:</b> (person or organization) Health Care Authority			
<b>Name of agency personnel responsible for:</b>			
	Name	Office Location	Phone
Drafting:	Brian Jensen	PO Box 42716, Olympia, WA 98504-2716	360-725-0815
Implementation:	Mark Westenhaver	PO Box 42722, Olympia, WA 98504-2722	360-725-1324
Enforcement:	Mark Westenhaver	PO Box 42722, Olympia, WA 98504-2722	360-725-1324
<b>Is a school district fiscal impact statement required under <a href="#">RCW 28A.305.135</a>?</b>			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, insert statement here:			
<p>The public may obtain a copy of the school district fiscal impact statement by contacting:</p> <p>Name:</p> <p>Address:</p> <p>Phone:</p> <p>Fax:</p> <p>TTY:</p> <p>Email:</p> <p>Other:</p>			
<b>Is a cost-benefit analysis required under <a href="#">RCW 34.05.328</a>?</b>			
<input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: Name: Address: Phone: Fax: TTY: Email: Other:			
<input checked="" type="checkbox"/> 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.			
<b>Regulatory Fairness Act and Small Business Economic Impact Statement</b>			
Note: The <a href="#">Governor's Office for Regulatory Innovation and Assistance (ORIA)</a> provides support in completing this part.			
<b>(1) Identification of exemptions:</b>			
This rule proposal, or portions of the proposal, <b>may be exempt</b> from requirements of the Regulatory Fairness Act (see <a href="#">chapter 19.85 RCW</a> ). For additional information on exemptions, consult the <a href="#">exemption guide published by ORIA</a> . Please check the box for any applicable exemption(s):			
<input type="checkbox"/> This rule proposal, or portions of the proposal, is exempt under <a href="#">RCW 19.85.061</a> 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:			
<input type="checkbox"/> This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by <a href="#">RCW 34.05.313</a> before filing the notice of this proposed rule.			
<input type="checkbox"/> This rule proposal, or portions of the proposal, is exempt under the provisions of <a href="#">RCW 15.65.570(2)</a> 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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((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 rule pertains to client program eligibility and does not impose any 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:** November 27, 2023

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**WAC 182-509-0220 Washington apple health—How resources are considered.** (1) A resource is any cash, other personal property, or real property that a person:

- (a) Owns;
- (b) Has the right, authority, or power to convert to cash (if not already cash); and
- (c) Has the legal right to use for his or her support and maintenance.

(2) There is no resource limit for an applicant or recipient of the following Washington apple health ~~((WAH))~~ (medicaid) programs:

(a) ~~((WAH))~~ Apple health for workers with disabilities (HWD) program, as described in chapter 182-511 WAC;

(b) ~~((WAH))~~ Apple health foster care program (see WAC 182-505-0211);

(c) Medicare savings programs (see WAC 182-517-0100);

(d) All programs that are based on modified adjusted gross income (MAGI) methodologies, as described in WAC 182-503-0510. This includes the following:

(i) ~~((WAH))~~ Apple health for parents and caretaker relatives (see WAC 182-505-0240);

(ii) ~~((WAH for pregnant women))~~ Apple health pregnancy coverage (see WAC 182-505-0115);

(iii) ~~((WAH))~~ Apple health for kids (see WAC 182-505-0210);

(iv) Premium-based ~~((WAH))~~ apple health for kids (see WAC 182-505-0215);

(v) ~~((WAH))~~ Apple health long-term care for children and adults (see WAC 182-514-0230);

(vi) ~~((WAH))~~ Apple health for MAGI-based adult coverage (see WAC 182-505-0250); and

(vii) ~~((WAH))~~ Apple health MAGI-based adult alien emergency medical (see WAC 182-507-0110).

(3) For all other ~~((WAH))~~ apple health programs, the resource limits and exclusions can be found in the following chapters:

(a) ~~((WAH))~~ Apple health SSI-related medical (see chapter 182-512 WAC) with the exception of programs listed in subsection (2) of this section;

(b) ~~((WAH))~~ Apple health long-term care (see chapters 182-513 and 182-515 WAC);

(c) SSI-related ~~((WAH))~~ apple health alien medical program (see chapter 182-507 WAC);

~~(d) ((Medicare savings program (see WAC 182-517-0310)));~~

~~(e) ((WAH))~~ Apple health for refugees (see WAC 182-507-0130); and

~~((f))~~ (e) Medical care services (see WAC ~~((182-509-0200))~~ 182-508-0005).

(4) The agency or its designee determines how trusts, annuities and life estates affect eligibility for ~~((WAH))~~ apple health coverage for the programs listed in subsection ~~((s))~~ (3)(a) through ~~((f))~~ (e) of this section by following the rules described in chapter 182-516 WAC.

(5) Receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell-fishing, or selling timber, is con-

sidered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations when a resource determination is required by the specific ((WAH)) apple health program. If no resource determination is required by the specific ((WAH)) apple health program, eligibility is not affected.

**WAC 182-519-0050 Monthly income and countable resource standards for medically needy (MN).**

(1) Changes to the medically needy income level (MNIL) occur on January 1st of each calendar year when the Social Security Administration (SSA) issues a cost-of-living adjustment.

(2) Medically needy (MN) standards for people who meet institutional status requirements are in WAC 182-513-1395. The standard for a client who lives in an alternate living facility is in WAC 182-513-1205.

(3) The resource standards for institutional programs are in WAC 182-513-1350. The institutional standard chart is found at: (~~http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/LTCstandardspna.shtml~~) <http://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(4) Countable resource standards for the noninstitutional MN program are:

- |   |         |
|---|---------|
| (a) One person                            | \$2,000 |
| (b) A legally married couple              | \$3,000 |
| (c) For each additional family member add | \$50    |

(5) People who do not meet institutional status requirements use the "effective" MNIL income standard to determine eligibility for the MN program. The "effective" MNIL is the one-person federal benefit rate (FBR) established by SSA each year, or the MNIL listed in the chart below, whichever amount is higher. The FBR is the supplemental security income (SSI) payment standard. For example, in (~~(2012)~~) 2023, the FBR is (~~(\$698)~~) \$914.

1	2	3	4	5	6	7	8	9	10
<del>((467))</del> <u>914</u>	<del>((592))</del> <u>914</u>	<del>((667))</del> <u>914</u>	<del>((742))</del> <u>914</u>	<del>((858))</del> <u>914</u>	975	1125	1242	1358	1483