



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

- | | |
|--|---|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 15-05-025 ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information:

WAC 182-514-0230, Washington apple health—MAGI-based long-term care—Purpose
 WAC 182-514-0235, Definitions
 WAC 182-514-0240, MAGI-based long-term care—General eligibility
 WAC 182-514-0245, MAGI-based long-term care—Resource eligibility
 WAC 182-514-0250, Washington apple health—MAGI-based long-term care for adults age nineteen and older
 WAC 182-514-0255, Washington apple health—MAGI-based long-term care program for young adults nineteen and twenty years of age
 WAC 182-514-0260, Washington apple health—MAGI-based long-term care for children age eighteen and younger
 WAC 182-514-0263, Non SSI-related institutional medically needy coverage for pregnant women and persons under twenty-one
 WAC 182-514-0270, When an involuntary commitment to Eastern or Western State Hospital is covered by Washington apple health

Hearing location(s):
 Health Care Authority
 Cherry Street Plaza Building; Sue Crystal Conf Rm 106A
 626 - 8th 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
 or directions can be obtained by calling: 360-725-1000

Date: **January 26, 2016** Time: **10:00 a.m.**

Date of intended adoption: Not sooner than January 27, 2016 (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 – 8th Avenue, Olympia WA 98504
 e-mail arc@hca.wa.gov
 fax (360) 586-9727

by: **5:00 PM on January 26, 2016**

Assistance for persons with disabilities: Contact
 Amber Lougheed TTY (800) 848-5429 or (360) 725-1349
 or e-mail: amber.lougheed@hca.wa.gov

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending these rules to comply with federal guidance, improve clarity, and update policy.

Reasons supporting proposal: The changes will provide accurate information in a format that is easier to read.

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?	<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:

DATE
 December 14, 2015

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: December 14, 2015

TIME: 8:46 AM

WSR 16-01-068

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.....Melinda Froud	P.O. Box 42716, Olympia, WA 98504-2716	(360) 725-1408
Implementation... Mick Pettersen	P.O. Box 45534, Olympia, WA 98504-5534	(360) 725-0913
Enforcement..... Mick Pettersen	P.O. Box 45534, Olympia, WA 98504-5534	(360) 725-0913

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 proposed filing does not impose a disproportionate cost on small businesses.

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 182-514-0230 ((Washington apple health MAGI-based long-term care program.)) Purpose. (1) ((The sections that follow describe the)) This chapter describes eligibility requirements for the Washington apple health (WAH) modified adjusted gross income (MAGI)-based long-term care program (LTC) for children and adults who ((are admitted for a long-term stay to a medical institution, an inpatient psychiatric facility or an institution for mental diseases (IMD):~~

~~(a) WAC 182-514-0235 Definitions;~~

~~(b) WAC 182-514-0240 General eligibility requirements for the WAH MAGI-based long-term care program;~~

~~(c) WAC 182-514-0245 Resource eligibility for WAH MAGI-based long-term care program;~~

~~(d) WAC 182-514-0250 WAH MAGI-based long-term care programs for adults twenty-one years of age or older;~~

~~(e) WAC 182-514-0255 WAH MAGI-based long-term care program for young adults nineteen and twenty years of age;~~

~~(f) WAC 182-514-0260 WAH MAGI-based long-term care program for children eighteen years of age or younger;~~

~~(g) WAC 182-514-0265 How the agency or its designee determines how much of an institutionalized person's income must be paid towards the cost of care for the WAH MAGI-based long-term care program; and~~

~~(h) WAC 182-514-0270 When an involuntary commitment to Eastern or Western State Hospital is covered by Washington apple health.~~

~~(2) Recipients of a noninstitutional WAH children's program as described in WAC 182-505-0210 or 182-505-0211 do not need to submit a new application for long-term care coverage when admitted to an institution. The agency or its designee treats the admittance to the institution as a change of circumstances and determines eligibility based upon the anticipated length of stay)) have been admitted to an institution as defined in WAC 182-500-0050 for at least thirty days. The rules are stated in the following sections:~~

~~(a) WAC 182-514-0240 General eligibility;~~

~~(b) WAC 182-514-0245 Resource eligibility;~~

~~(c) WAC 182-514-0250 Program for adults age nineteen and older;~~

~~(d) WAC 182-514-0260 Program for children under age nineteen;~~

~~(e) WAC 182-514-0263 Non-SSI-related institutional medically needy coverage for pregnant women and people age twenty and younger.~~

~~(f) WAC 182-514-0270 Involuntary commitment to Eastern or Western State Hospital.~~

~~(2) A noninstitutional WAH program recipient does not need to submit a new application for LTC coverage if admitted to an institution under this section. Admission to an institution constitutes a change of circumstances. Eligibility is based on institutional status under WAC 182-513-1320.~~

~~(3) In this chapter, "medicaid agency" or "agency" means the Washington state health care authority and includes the agency's designee. See chapter 182-500 WAC for additional definitions.~~

~~(4) Income standards used in this chapter are listed at <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.~~

~~WAC 182-514-0240 ((Washington apple health General eligibility requirements for MAGI-based long-term care program.)) **General eligibility.** ((1) This section applies to applicants for long-term care (LTC) services under the Washington apple health (WAH) modified adjusted gross income (MAGI) based LTC program. Additional rules may apply based upon a person's age at the time he or she applies for LTC services and whether the facility the person is admitted to is a medical institution, inpatient psychiatric facility, or an institution for mental diseases (IMD). Additional rules are described in WAC 182-514-0245 through 182-514-0265.~~

~~(2) The following requirements apply to be eligible for WAH MAGI-based LTC coverage under this section:~~

~~(a) Institutional status described in WAC 182-513-1320. A person meets institutional status if he or she is admitted to:~~

~~(i) A medical institution and resides, or is likely to reside, there for thirty days or longer, regardless of age;~~

~~(ii) An inpatient psychiatric facility or IMD and resides, or is likely to reside, there for thirty days or longer and is eighteen through twenty years of age; or~~

~~(iii) An inpatient psychiatric facility or IMD and resides, or is likely to reside, there for ninety days or longer and is seventeen years of age or younger.~~

~~(b) General eligibility requirements described in WAC 182-503-0505 (with the exception that subsections (3)(c) and (d) of that section do not apply to noncitizen applicants who are eligible under one of the WAH alien medical programs described in chapter 182-507 WAC) and the person meets the program requirements of one of the following:~~

~~(i) WAH for parents and caretaker relatives as described in WAC 182-505-0240, including anyone who receives extended health care coverage as described in WAC 182-523-0100;~~

~~(ii) WAH for kids as described in WAC 182-505-0210 (with the exception that for MAGI-based LTC services, a person is considered a child through the age of twenty-one);~~

~~(iii) WAH for adults as described in WAC 182-505-0250;~~

~~(iv) WAH for pregnant women as described in WAC 182-505-0115; or~~

~~(v) WAH alien medical program as described in WAC 182-507-0110 (with the exception that for MAGI-based LTC services, alien medical coverage may be authorized for children through twenty-one years of age) and:~~

~~(A) Have a qualifying emergency condition; and~~

~~(B) For payment for LTC services and room and board costs in the institution, request prior authorization from the aging and long-term support administration (AL TSA) if the person is admitted to a nursing facility.~~

~~(c) Have countable income below the applicable standard described in WAC 182-514-0250(4), 182-514-0255(3), or 182-514-0260(4); and~~

~~(d) Be assessed as needing nursing facility level of care as described in WAC 388-106-0355 if the admission is to a nursing facility. (This does not apply to nursing facility admissions under the hospice program.)~~

~~(3) Once the agency or its designee determines a person meets institutional status, it does not count the income of parent(s), a spouse, or dependent child(ren) when determining countable income. Only income received by the person in his or her own name is counted for eligibility determination.~~

~~(4) A person who is not a United States citizen or a qualified alien does not need to provide or apply for a Social Security number or meet the citizenship requirements under WAC 182-503-0535 as long as the requirements in subsection (2) of this section are met.~~

~~(5) A person who meets the federal aged, blind or disabled criteria may qualify for institutional benefits with income of up to three hundred percent of the federal benefit rate (FBR). Rules relating to institutional eligibility for an aged, blind or disabled person are described in WAC 182-513-1315. A person who is SSI related and who meets the eligibility criteria described in WAC 182-513-1316 may qualify for institutional benefits.~~

~~(6) If a person does not meet institutional status, the agency or its designee determines his or her eligibility for a noninstitutional WAH medical program. A person who is determined eligible for CN or medically needy (MN) coverage under a noninstitutional program who is admitted to a nursing facility for less than thirty days is approved for coverage for the nursing facility room and board costs, as long as the person is assessed by ALTSA as meeting nursing home level of care as described in WAC 388-106-0355.~~

~~(7) A person who is found eligible for the MAGI based LTC program is not required to participate income or assets toward the cost of care in the post eligibility treatment of income process that applies to an SSI related applicant.))~~ (1) To be eligible for modified adjusted gross income (MAGI)-based long-term care (LTC) coverage under this section, a person must:

(a) Meet institutional status under WAC 182-513-1320;

(b) Meet the general eligibility requirements under WAC 182-503-0505, unless the applicant is a noncitizen, in which case WAC 182-503-0505 (3)(c) and (d) do not apply;

(c) Have countable income below the applicable standard described in WAC 182-514-0250(2) or 182-514-0260(3), unless the applicant is eligible as medically needy;

(d) Satisfy the program requirements in WAC 182-514-0250 and 182-514-0260; and

(e) Meet the nursing facility level of care under WAC 388-106-0355 if admitted to a nursing facility for nonhospice care. Hospice patients are exempt from this requirement.

(2) A person age nineteen or older who does not meet the citizenship or immigration requirements under WAC 182-503-0535 to qualify for medicaid must meet the criteria in subsection (1) of this section and:

(a) Have a qualifying emergency condition and meet the requirements under WAC 182-507-0115 and 182-507-0120; or

(b) Meet the requirements under WAC 182-507-0125 if the person needs LTC coverage in a nursing facility.

(3) If a person meets institutional status, the medicaid agency counts only income received by the person or on behalf of the person when determining eligibility.

(4) A person who meets the federal aged, blind, or disabled criteria may qualify for coverage under chapter 182-513 WAC.

(5) A person who receives supplemental security income (SSI) is not eligible for the MAGI-based LTC program.

(6) If a person does not meet institutional status, the agency determines the person's eligibility for a noninstitutional medical program.

(7) A person eligible for categorically needy or medically needy coverage under a noninstitutional program who is admitted to a nursing facility for fewer than thirty days is only approved for coverage for the nursing facility room and board costs if the person meets the nursing facility level of care as described under WAC 388-106-0355.

(8) A MAGI-based LTC recipient is not required to pay toward the cost of care.

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-514-0245 ~~((Washington apple health Resource eligibility for MAGI-based long-term care program.))~~ **Resource eligibility.** ~~((+))~~ There is no resource test for applicants or recipients of the Washington apple health (WAH) modified adjusted gross income (MAGI)-based long-term care (LTC) program.

~~(2) The transfer of asset evaluation described in WAC 182-513-1363 does not apply to applicants or recipients who are eligible under the WAH MAGI-based LTC program.)~~ Applicants for and recipients of the modified adjusted gross income (MAGI)-based long-term care program are exempt from the transfer-of-asset evaluation under WAC 182-513-1363, and there is no resource test.

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-514-0250 ~~((Washington apple health MAGI-based long-term care))~~ **Program for adults age** ~~((twenty-one or))~~ **nineteen and older.**

(1) To qualify for coverage under the modified adjusted gross income (MAGI)-based long-term care (LTC) program under this section, a person ~~((twenty-one years of))~~ age nineteen or older must ~~((meet the requirements in WAC 182-505-0250 to qualify for))~~ be eligible for one of the following Washington apple health (WAH) ((modified adjusted gross income (MAGI)-based long-term care (LTC) coverage under this section)) programs:

(a) WAC 182-505-0240 Washington apple health—Parents and care-taker relatives;

(b) WAC 182-523-0100 Washington apple health—Medical extension;

(c) WAC 182-505-0250 Washington apple health—MAGI-based adult medical;

(d) WAC 182-505-0115 Washington apple health—Eligibility for pregnant women; or

(e) WAC 182-507-0110 Washington apple health—Alien medical programs.

(2) The categorically needy (CN) income level ~~((CNIL))~~ for health care coverage under this section is ~~((one hundred thirty-three percent of the federal poverty level. A person's countable income (af-~~

~~ter a standard five percentage point income disregard) must be at or below this amount to be eligible)) the applicable standard for the program the person receives after the standard five percentage point income disregard. See WAC 182-505-0100 for standards based on the federal poverty level.~~

~~(3) The medicaid agency determines countable income for ((categorically needy (-))CN((+)) coverage under this section ((is determined)) using ((the)) MAGI ((methodologies described in)) methodology under chapter 182-509 WAC.~~

~~(4) ((With the exception of an institutionalized pregnant woman, if the person's income exceeds the standards to be eligible under the WAH MAGI based CN long term care program, he or she is not eligible for medically needy coverage under this section.~~

~~(5) A person, age twenty one through sixty four years of age who is admitted to an institution for mental diseases (IMD) is not eligible for coverage under this section.) The agency approves CN coverage under this section for twelve calendar months.~~

~~(5) A person is ineligible for medically needy (MN) coverage under this section if the person's income exceeds CN eligibility standards, unless the person is age nineteen, twenty, or pregnant.~~

~~(6) If a person who is age nineteen, twenty, or pregnant is not eligible for CN coverage under this section, the agency determines eligibility for MN coverage under WAC 182-514-0263.~~

~~(7) A person who applies for or receives MAGI-based LTC coverage at Eastern or Western State Hospital in the month of his or her twenty-first birthday and who receives active inpatient psychiatric treatment that will likely continue through the person's twenty-first birthday is eligible for CN coverage until:~~

~~(a) The facility discharges the person; or~~

~~(b) The end of the month in which the person turns age twenty-two, whichever occurs first.~~

~~(8) Except for a person described in subsection (7) of this section, a person who is admitted to Eastern or Western State Hospital who is older than age twenty but younger than age sixty-five is not eligible for WAH coverage.~~

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-514-0260 ~~((Washington apple health MAGI-based long-term care coverage for children eighteen years of age or younger.)) Program for children under age nineteen.~~ (1) ~~((Children eighteen years of age or younger must meet the requirements in WAC 182-514-0240 to qualify for the Washington apple health (WAH) modified adjusted gross income (MAGI) based long term care (LTC) coverage under this section.~~

~~(2) When a child eighteen years of age or younger)) To qualify for the modified adjusted gross income (MAGI)-based long-term care (LTC) program under this section, a child under age nineteen must meet:~~

~~(a) The general eligibility requirements in WAC 182-514-0240; and~~

~~(b) Program requirements under WAC 182-505-0210 or 182-505-0117.~~

~~(2) If a child under age nineteen is eligible for the premium-based ((WAH for kids)) children's program ((as described in WAC~~

~~182-505-0210)) under WAC 182-505-0215, the medicaid agency ((or its designee)) redetermines ((his or her)) the child's eligibility ((using the provisions of)) under this section so that the child's family is not required to pay the premium.~~

(3) The categorically needy (CN) income level ~~((+CNIL) for WAH))~~ for LTC coverage under this section is two hundred ten percent of the federal poverty level ~~((+))~~ after ~~((a))~~ the standard five percentage point income disregard~~((+))~~.

(4) To determine countable income for ~~((categorically needy +))~~ CN~~((+))~~ coverage under this section ~~((is determined using the MAGI methodologies described in)),~~ apply MAGI methodology under chapter 182-509 WAC.

(5) The agency ~~((or its designee))~~ approves CN ~~((health care))~~ coverage under this section for twelve calendar months (certification period). If the child is discharged from the facility before the end of ~~((his or her))~~ the certification period, the child remains continuously eligible for CN ~~((health care))~~ coverage through the ~~((end of the original))~~ certification ~~((date))~~ period, unless ~~((he or she))~~ the child ages out of the program, moves out of state, is incarcerated, or dies.

(6) If a child is not eligible for CN ~~((health care))~~ coverage under this section, the agency ~~((or its designee))~~ determines the child's eligibility for ~~((health care))~~ coverage under the ~~((WAH))~~ institutional medically needy ~~((+MN+))~~ program described in WAC ~~((182-513-1395))~~ 182-514-0263.

~~((7))~~ ~~((MN coverage is only available for a child who meets the citizenship requirements under WAC 182-503-0535.~~

~~((8))~~ ~~The facility))~~ The institution where the child resides may submit an application on the child's behalf and may act as ~~((an))~~ the child's authorized representative if the child is:

(a) In a court-ordered, out-of-home placement under chapter 13.34 RCW; or

(b) Involuntarily committed to an inpatient treatment program by a court order under chapter 71.34 RCW.

~~((9))~~ ~~Children who are eligible for WAH MAGI based long term care coverage under the provisions of this section may be required to contribute a portion of their income towards the cost of care as described in WAC 182-514-0265.)~~

NEW SECTION

WAC 182-514-0263 Non-SSI-related institutional medically needy coverage for pregnant women and people age twenty and younger.

(1) Medically needy (MN) coverage under this section is only available for people age twenty and younger or pregnant women. The medicaid agency determines a person who meets SSI-related criteria under WAC 182-512-0050 eligible for institutional MN coverage under WAC 182-513-1395. If a person meets requirements in both this section and WAC 182-513-1395, the person may choose which program to enroll in for coverage.

(2) A person whose income exceeds the categorically needy (CN) standards under WAC 182-514-0250 and 182-514-0260 is:

(a) Eligible for MN coverage with no spenddown if the person's countable income (CI) is equal to or less than the department-contracted daily rate times the number of days in the institution;

(b) Eligible for MN coverage after a spenddown under WAC 182-519-0110 is met if the person's CI is above the department-contracted daily rate times the number of days in the institution but less than the institution's private rate;

(c) Not eligible for payment of long-term care services provided by the institution if the person's CI exceeds the institution's private rate;

(d) Responsible for paying up to the monthly state rate for the facility as participation in the cost of care; and

(e) Allowed to keep a monthly personal needs allowance (PNA) of at least \$57.28. Current PNA and long-term care standards can be found at <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.

(3) If a person's CI exceeds the institution's private rate, the agency determines eligibility for medical coverage under chapter 182-519 WAC.

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-514-0270 ((When an)) Involuntary commitment to Eastern or Western State Hospital ((is covered by medicaid)). (1) A person who is ((admitted)) involuntarily committed to Eastern or Western State Hospital ((for inpatient psychiatric treatment)) under chapter 71.34 RCW is eligible for categorically needy (CN) ((health care coverage in limited circumstances).

~~(2) To be eligible under this program, a person must:~~

~~(a) Be twenty years of age or younger, or sixty five years of age or older)) coverage if the person:~~

~~(a) Is under age twenty-one;~~

~~(b) Meets institutional status under WAC 182-513-1320; and~~

~~(c) ((Be involuntarily committed to an inpatient treatment program by a court order under chapter 71.34 RCW;~~

~~(d) Have)) Has countable income below:~~

~~(i) Two hundred ten percent of the federal poverty level if ((age twenty years or younger; or~~

~~(ii) The SSI-related CN income level if age sixty five years or older and have countable resources below the standard described in WAC 182-512-0010.~~

~~(3) A person who receives active psychiatric treatment in Eastern or Western State Hospital at the time of his or her twenty first birthday continues to be eligible for CN health care coverage until the date he or she is discharged from the facility or until the person's twenty second birthday, whichever occurs first.~~

~~(4) A person between the age of twenty one and sixty five, with the exception of subsection (3) of this section, is not eligible for federally funded health care coverage through Washington apple health.) under age nineteen; or~~

~~(ii) One hundred thirty-three percent of the federal poverty level if age nineteen or twenty.~~

~~(2) A person who is involuntarily committed or receives MAGI-based long-term care coverage at Eastern or Western State Hospital in~~

the month of the person's twenty-first birthday and receives active inpatient psychiatric treatment that will likely continue through the person's twenty-first birthday, is eligible for CN coverage until:

(a) The facility discharges the person; or

(b) The end of the month in which the person turns twenty-two, whichever occurs first.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 182-514-0235 Definitions.

WAC 182-514-0255 Washington apple health—MAGI-based
long-term care program for young adults
nineteen and twenty years of age.