



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 08, 2018

TIME: 10:35 AM

WSR 18-13-021

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-08-045 ; 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)

WAC 182-513-1330 Determining available income for legally married couples for long-term care (LTC) services

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
July 25, 2018	10:00 AM	Health Care Authority Cherry Street Plaza Sue Crystal Room 106A 626 8 th Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than July 26, 2018 (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) July 25, 2018

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: (800) 848-5429 or 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) July 20, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is modifying WAC 182-513-1330 to add WAC references for sponsored immigrants and how to determine if sponsors' income counts in determining benefits.

Reasons supporting proposal: See purpose

Statutory authority for adoption: RCW 41.05.021, 41.05.160, 20 C.F.R 416.1204 - Deeming of resources of the sponsor of an alien

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:

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

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Vance Taylor	PO Box 42716, Olympia WA 98504-2716	360-725-1344
Implementation:	Stephen Kozak	PO Box 42716, Olympia WA 98504-2716	360-725-1343
Enforcement:	Stephen Kozak	PO Box 42716, 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 Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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).

Explanation of exemptions, if necessary: This rulemaking applies to client eligibility and does not affect small businesses


COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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: June 8, 2018	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

WAC 182-513-1330 Determining available income for legally married couples for long-term care (LTC) services. This section describes income the agency or its designee determines available when evaluating a legally married person's eligibility for long-term care (LTC) services.

(1) The agency or (~~its~~) the agency's designee applies the following rules when determining income eligibility for LTC services:

- (a) WAC 182-512-0600 SSI-related medical—Definition of income;
- (b) WAC 182-512-0650 SSI-related medical—Available income;
- (c) WAC 182-512-0700 SSI-related medical—Income eligibility;
- (d) WAC 182-512-0750 SSI-related medical—Countable unearned income;
- (e) WAC 182-512-0840(3), self-employment income-allowance expenses;

(f) WAC 182-512-0960 SSI-related medical—Allocating income—Determining eligibility for a spouse when the other spouse receives long-term services and supports (LTSS);

(g) WAC 182-512-0785, 182-512-0790, and 182-512-0795 for sponsored immigrants and how to determine if the sponsors' income counts in determining benefits.

(2) In initial categorically needy income eligibility for LTC, the agency does not allow any deductions listed in 1612(b) of the Social Security Act, for example:

- (a) Twenty dollars per month income exclusion under WAC 182-512-0800;
- (b) The first \$65 and the remaining one-half earned income work incentive under WAC 182-512-0840; and
- (c) Impairment related work expense or blind work expense under WAC 182-512-0840.

(3) The following income is available to an institutionalized spouse, unless subsections (5) and (6) apply:

- (a) Income received in the institutionalized spouse's name;
- (b) Income paid to a representative on the institutionalized spouse's behalf; and
- (c) One-half of the income received in the names of both spouses.

(4) The following income is unavailable to an institutionalized spouse:

- (a) Separate income received in the name of the community spouse; and
- (b) Income established as unavailable through a court order.

(5) For the determination of eligibility only, if available income under subsection (3)(a) through (c) of this section, minus income exclusions under WAC 182-513-1340, exceeds the special income level (SIL), defined under WAC 182-513-1100, the agency or its designee:

- (a) Follows Washington state community property law when determining ownership of income;
- (b) Presumes all income received after the marriage by either spouse to be community income;
- (c) Considers one-half of all community income available to the institutionalized spouse.

(6) If the total of subsection (5)(c) of this section plus the institutionalized spouse's separate income is over the SIL, determine available income using subsection (3) of this section.

(7) A stream of income, not generated by a transferred resource, is available to the institutionalized spouse, even if the institutionalized spouse transfers or assigns the rights to the stream of income to one of the following:

(a) The community spouse; or

(b) A trust for the benefit of the community spouse.