



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: January 23, 2019

TIME: 3:33 PM

WSR 19-04-006

Agency: Health Care Authority

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-12-029 ; 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)

(New) Chapter 182-524 WAC COFA Islander Health Care

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 12, 2019	10:00 AM	Health Care Authority Cherry Street Plaza Sue Crystal Conf Rm 106B 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 March 13, 2019 (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) March 12, 2019

Assistance for persons with disabilities:

Contact Amber Lougheed

Phone: (360) 725-1349

Fax: (360) 586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: amber.lougheed@hca.wa.gov

Other:

By (date) March 8, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: As directed by the Legislature, the agency is creating rules to implement a premium assistance program for Pacific Islanders residing in Washington under a compact of free association (COFA).

Reasons supporting proposal: See purpose.

Statutory authority for adoption: Substitute Senate Bill 5683, 65th Legislature, 2018 Regular Session, Engrossed Substitute Senate Bill 6032 Sec. 213 (1)(hhh), (4)(d), 65th Legislature 2018 Regular Session, RCW 41.05.021, RCW 41.05.160

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:	Dody McAlpine	PO Box 42716, Olympia WA 98504-2716	360-725-9964
Enforcement:	Dody McAlpine	PO Box 42716, Olympia WA 98504-2716	360-725-9964

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)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

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:

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: January 23, 2019

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



**Chapter 182-524 WAC
COFA ISLANDER HEALTH CARE**

NEW SECTION

WAC 182-524-0100 General. (1) Compact of Free Association (COFA) islander health care is a state-funded program administered by the health care authority (the agency) to pay the monthly premiums and out-of-pocket expenses for silver level qualified health plans for eligible COFA islanders.

(2) For the purpose of this chapter, "our," "us," and "we" refer to the agency or the agency's designee and "you" refers to the applicant for, or recipient of, COFA islander health care.

(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC.

NEW SECTION

WAC 182-524-0200 Definitions. This section defines terms used in this chapter. See chapter 182-500 WAC for additional definitions.

"Advance premium tax credit (APTC)" - A tax credit taken in advance to lower a monthly health insurance payment (or premium).

"COFA islander" - A person who is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

"COFA islander health care" - An agency-administered program that pays the premium and out-of-pocket costs for a silver level qualified health plan for eligible COFA islanders.

"Compact of Free Association (COFA)" - A legal agreement between the government of the United States and the governments of the Federated States of Micronesia (U.S. Pub. L. 108-188); the Republic of the Marshall Islands (U.S. Pub. L. 108-188); and the Republic of Palau (U.S. Pub. L. 99-658).

"Cost-sharing funds" - Agency-provided funds for out-of-pocket costs.

"Out-of-pocket costs" - Copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits covered by the plan and rendered as in-network. Excludes premiums, balance billing amounts for out-of-network providers, and spending for noncovered services.

"Premium cost" - A person's premium for a qualified health plan, minus the amount of the person's advanced premium tax credit.

"Silver level qualified health plan (QHP)" - Silver level indicates the category of a qualified health plan (QHP) offered by the Washington health benefit exchange (HBE). For a definition of QHP, see WAC 182-500-0090.

NEW SECTION

WAC 182-524-0250 How to apply. (1) COFA islanders age nineteen and older may apply for a qualified health plan (QHP) by:

(a) Completing the application via the Washington Healthplanfinder web site at www.wahealthplanfinder.org;

(b) Calling the Washington health benefit exchange (HBE) customer support center and completing an application by telephone;

(c) Calling the COFA islander health care support line and completing an application by telephone; or

(d) Completing the application for health care coverage (HCA 18-001P), and mailing or faxing to the HBE.

(2) When you submit an application for a QHP through HBE, you are automatically considered for COFA islander health care.

NEW SECTION

WAC 182-524-0300 Eligibility. In order to be eligible for state-funded COFA islander health care, you must enroll in a silver level qualified health plan (QHP) through the Washington health benefit exchange (HBE) during open enrollment or when you qualify for a special enrollment period as described in 45 C.F.R. 155.410 and 45 C.F.R. 155.420.

(1) You are eligible for state-funded COFA islander health care administered by us no earlier than January 1, 2019, if you:

(a) Are a COFA islander;

(b) Meet the residency requirements as described under WAC 182-524-0400;

(c) Have household income, as defined under 26 C.F.R. 1.36B-1(e), under one hundred thirty-three percent of the federal poverty level (FPL);

(d) Do not qualify for another federal or state medical assistance programs under chapter 74.09 RCW, that provides minimum essential coverage;

(e) Qualify for, and accept, the maximum advance premium tax credit available under 45 C.F.R. 155.305(f); and

(f) Are enrolled in a silver level QHP.

(2) Eligibility for COFA islander health care is subject to the availability of amounts appropriated for the program.

(3) You will be terminated from COFA islander health care if you:

(a) Do not meet the eligibility criteria under subsection (1) of this section; or

(b) Request termination.

(4) You may be terminated from COFA islander health care if you:

(a) Perform an act, practice, or omission that constitutes fraud, and an insurer rescinds your QHP policy; or

(b) Use your COFA islander health care cost-sharing funds to pay for anything other than out-of-pocket costs.

(5) We will reinstate your COFA islander health care if you were:

(a) Terminated in error; or

(b) Successful in your appeal of a termination.

(6) Your COFA islander health care begins the first day of the month following the month you meet the eligibility requirements as described in subsection (1) of this section.

(7) If you report a change that makes you eligible for COFA islander health care, your sponsorship begins either:

(a) The first day of the following month if the change was reported before the fifteenth of the month; or

(b) The first day of the month after the following month if the change was reported after the fifteenth of the month.

(8) Your COFA islander health care ends the day your enrollment in a silver level QHP ends or the last day of the month your COFA islander health care eligibility ends, whichever is earlier.

NEW SECTION

WAC 182-524-0400 Residency requirements. (1) This section applies only to residency requirement for COFA islander health care.

(2) A resident is a person who currently lives in Washington and:

(a) Intends to reside here, including people without a fixed address; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(3) You do not need to live in the state for a specific period of time to meet the requirements in subsection (2) of this section.

(4) You can be temporarily out-of-state and remain on COFA islander health care if you:

(a) Intend to return once the purpose of your absence concludes; and

(b) Meet the eligibility requirements as described under WAC 182-524-0300.

NEW SECTION

WAC 182-524-0500 Notice requirements. (1) This section applies only to notices and letters that we send regarding COFA islander health care.

(2) We send you written notices (letters) when we:

(a) Approve you for COFA islander health care;

(b) Deny you for COFA islander health care;

(c) Change or terminate your eligibility from COFA islander health care; and

(d) Ask you for more information.

(3) All written notices we send to you include:

(a) The date of the notice;

(b) Specific contact information for you if you have questions or need help with the notice;

(c) The nature of the action;

(d) The effective date of the action;

(e) The facts and reasons for the action;

(f) Your appeal rights, if an appeal is available; and

(g) Other information required by the state.

(4) If we request information from you, we allow at least ten calendar days for you to submit requested information. If you ask, we may allow you more time to get us the information.

(a) If the due date falls on a weekend or a legal holiday as described in RCW 1.16.050, the due date is the next business day.

(b) We do not deny or terminate your eligibility when we ask you to provide information.

(c) If we do not receive your information by the due date, we make a determination based on all the information available.

(5) We send a written notice to you at least ten days before taking any adverse action. The ten-day notice period starts on the day we send the notice.

(6) We may send a notice fewer than ten days before the date of the adverse action if:

(a) You request the action;

(b) You request termination;

(c) A change in statute, federal regulation, or administrative rule is the sole cause of the action;

(d) You are incarcerated and expect to remain incarcerated at least thirty days;

(e) Mail sent to you is returned without a forwarding address and we do not have a more current address for you;

(f) You move out-of-state;

(g) You move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan;

(h) You are eligible for medicare;

(i) You die;

(j) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or

(k) Your silver level QHP is closed and you do not enroll in another silver level QHP.

NEW SECTION

WAC 182-524-0600 Payments. (1) We pay your silver level qualified health plan (QHP) premium costs directly to the QHP carrier unless we determine good cause exists to reimburse you for the premium costs.

(2) We pay your mandatory out-of-pocket costs separate from your premium costs through cost-sharing funds.

(3) Cost-sharing funds are only for your out-of-pocket costs.

(4) We will not pay for, or reimburse you for, costs not considered as out-of-pocket costs or expenses incurred by people not covered under COFA islander health care.

(5) You are responsible for ensuring the services you receive are covered under your QHP and rendered as in-network.

(6) We may stop payments of your silver level QHP premium costs and your cost-sharing funds when you:

(a) Fail to provide verification of payments through us or an agency-contracted vendor;

(b) Fail to respond to a request for information from us or an agency-contracted vendor;

(c) Misuse your cost-sharing funds by:

- (i) Purchasing anything not considered an out-of-pocket cost; or
- (ii) Allowing another person access to your cost-sharing funds.
- (d) Are no longer eligible for COFA islander health care as described under WAC 182-524-0300.
- (7) You must follow the requirements of any agency-contracted vendor that provides services enabling you to access your cost-sharing funds.
- (8) We monitor payments and cost-sharing transactions under COFA islander health care.