



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: February 01, 2019

TIME: 1:59 PM

WSR 19-04-072

Agency: Health Care Authority

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 18-01-077 ; 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) 182-517-0100 Federal medicare savings program.

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: www.hca.wa.gov/documents/directions_to_csp.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: 800) 848-5429 or 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: The agency is amending this rule to create a second eligibility methodology based on household size for the Qualified Medicare Beneficiary (QMB) program. This second eligibility method compares countable income to the federal poverty level based on family size, and the agency uses the eligibility methodology that provides clients with the highest level of coverage under the QMB program. If neither eligibility determination results in QMB coverage, the agency uses both methodology processes to determine if the client is eligible under any other Medicare savings program.

Reasons supporting proposal: The new methodology in effect increases the income limit and will allow more households to become eligible for this benefit.

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:

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

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Melinda Froud	PO Box 42716, Olympia WA 98504-2716	360-725-1408
Implementation:	Mark Westenhaver	PO Box 45534, Olympia, WA 98504-5534	360-725-1324
Enforcement:	Mark Westenhaver	PO Box 45534, Olympia, WA 98504-5534	360-725-1324

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 ____.

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. The proposed rule does not impose any costs on businesses.

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: February 1, 2019

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-517-0100 Federal medicare savings programs. (1) Available programs. The medicaid agency offers eligible clients the following medicare savings programs (MSPs):

- (a) The qualified medicare beneficiary (QMB) program;
- (b) The specified low-income medicare beneficiary (SLMB) program;
- (c) The qualified individual (QI-1) program; and
- (d) The qualified disabled and working individuals (QDWI) program.

(2) Eligibility requirements.

(a) To be eligible for an MSP, a ~~((person))~~ client must:

(i) Be entitled to medicare Part A; and
(ii) ~~((Be a U.S. citizen, U.S. national, qualified American Indian born abroad, or a qualified alien who satisfies or is exempt from the five-year bar under WAC 182-503-0535;~~

~~(iii) Not exceed the income limits in (d) of this subsection; and~~

~~(iv) Not exceed the resource limits in (e) of this subsection.))~~

Meet the general eligibility requirements under WAC 182-503-0505.

(b) To be eligible for QDWI, a ~~((person))~~ client must be under age sixty-five.

(c) ~~((Except as provided under (d) and (e) of this subsection, MSPs follow the income, resource, and deeming rules for SSI-related persons in chapter 182-512 WAC.~~

~~(d))~~ Income and resource limits.

(i) Income limits for all MSPs are found at <https://www.hca.wa.gov/health-care-services-and-supports/program-administration/program-standard-income-and-resources>.

(ii) If a ~~((person's))~~ client's countable income is less than or equal to one hundred percent of the federal poverty level (FPL), the ~~((person may qualify))~~ client is income eligible for the QMB program.

~~((iii))~~ (iii) If a ~~((person's))~~ client's countable income is over one hundred percent of the FPL, but does not exceed one hundred twenty percent of the FPL, the ~~((person may qualify))~~ client is income eligible for the SLMB program.

~~((iii))~~ (iv) If a ~~((person's))~~ client's countable income is over one hundred twenty percent of the FPL, but does not exceed one hundred thirty-five percent of the FPL, the ~~((person may qualify))~~ client is income eligible for the QI-1 program.

~~((iv))~~ (v) If a ~~((person's))~~ client's countable income is over one hundred thirty-five percent of the FPL, but does not exceed two hundred percent of the FPL, the ~~((person may qualify))~~ client is income eligible for the QDWI program if the client is employed and meets disability requirements described in WAC 182-512-0050.

~~((e))~~ (vi) Resource limits.

~~((i))~~ (A) The resource limit for the QMB, SLMB, and QI-1 programs ~~((may be found at <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.~~

~~((ii))~~ are found at <https://www.hca.wa.gov/health-care-services-and-supports/program-standard-income-and-resources>.

(B) The resource limit for the QDWI program is \$4,000 for a single person and \$6,000 for a married couple.

~~((f))~~ (3) MSP income eligibility determinations.

(a) The agency has two methods for determining if a client is eligible for an MSP:

(i) The agency first determines if the client is eligible based on SSI-rated methodologies under chapter 182-512 WAC. Under this method, the agency calculates the household's net countable income and compares the result to the one-person standard. However, if the spouse's income is deemed to the client, or if both spouses are applying, the household's net countable income is compared to the two-person standard.

(ii) If the client is not eligible under the methodology described in (a)(i) of this subsection, the agency compares the same countable income, as determined under (a)(i) of this subsection, to the appropriate FPL standard based on family size. The number of individuals that count for family size include:

(A) The client;

(B) The client's spouse who lives with the client;

(C) The client's dependents who live with the client;

(D) The spouse's dependents who live with the spouse, if the spouse lives with the client; and

(E) Any unborn children of the client, or of the spouse if the spouse lives with the client.

(b) Under both eligibility determinations, the agency follows the rules for SSI-related people under chapter 182-512 WAC for determining:

(i) Countable income and resources;

(ii) Availability of income and resources;

(iii) Allowable income deductions and exclusions; and

(iv) Deemed income from and allocated income to a nonapplying spouse and dependents.

(c) The agency uses the eligibility determination that provides the client with the highest level of coverage.

(i) If the MSP applicant is eligible for QMB coverage under (a)(i) of this subsection, the agency approves the coverage.

(ii) If the MSP applicant is not eligible for QMB coverage, the agency determines if the applicant is eligible under (a)(ii) of this subsection.

(iii) If neither eligibility determination results in QMB coverage, the agency uses the same process to determine if the client is eligible under any other MSP.

(d) When calculating income under this section:

(i) The agency subtracts client participation from a long-term care client's countable income under WAC 182-513-1380, 182-515-1509, or 182-515-1514.

(ii) The agency counts the annual Social Security cost-of-living increase beginning April 1st each year.

~~((g) Relationship of MSPs to other medicaid programs:~~

~~(i) A client eligible for another medicaid program may also receive QMB or SLMB coverage.~~

~~(ii) A client eligible for another medicaid program is not eligible for QI-1 or QDWI.~~

~~(3-))~~ (4) Covered costs.

(a) The QMB program pays:

(i) Medicare Part A and Part B premiums using the start date in WAC 182-504-0025; and

(ii) Medicare coinsurance, copayments, and deductibles for Part A, Part B, and ((medicare advantage)) Part C, subject to the limitations in WAC 182-502-0110.

(b) If the client is eligible for both SLMB and another medicaid program:

(i) The SLMB program pays the Part B premiums using the start date in WAC 182-504-0025; and

(ii) The medicaid program pays medicare coinsurance, copayments, and deductibles for Part A, Part B, and (~~medicare advantage~~) Part C subject to the limitations in WAC 182-502-0110.

(c) If the client is only eligible for SLMB, the SLMB program covers medicare Part B premiums using the start date in WAC 182-504-0025.

(d) The QI-1 program pays medicare Part B premiums using the start date in WAC 182-504-0025 until the agency's federal funding allotment is spent. The agency resumes QI-1 benefit payments the beginning of the next calendar year.

(e) The QDWI program covers medicare Part A premiums using the start date in WAC 182-504-0025.

~~((4))~~ (5) MSP eligibility. Medicaid eligibility may affect MSP eligibility:

(a) QMB and SLMB clients may receive medicaid and still be eligible to receive QMB or SLMB benefits.

(b) QI-1 and QDWI clients who begin receiving medicaid are no longer eligible for QI-1 or QDWI benefits, but may be eligible for the state-funded medicare buy-in program under WAC 182-517-0300.

~~((5) The FPL standards are found at: <http://www.heca.wa.gov/medicaid/eligibility/pages/standards.aspx>.)~~

(6) Right to request administrative hearing. A person who disagrees with agency action under this section may request an administrative hearing under chapter 182-526 WAC.