



# 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: July 24, 2019

TIME: 8:22 AM

WSR 19-15-142

Agency: Health Care Authority

Original Notice

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

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 19-07-054 ; 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 182-503-0050 Verification of eligibility factors

WAC 182-503-0055 Asset verification system (NEW SECTION)

WAC 182-503-0080 Washington apple health—Application denials and withdrawals

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 27, 2019	10:00 AM	Health Care Authority Cherry Street Plaza <b>Sue Crystal Conf Rm 106A</b> 626 8 <sup>th</sup> Ave, Olympia WA 98504	Metered public parking is available street side around building. A map is available at: <a href="https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf">https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf</a> or directions can be obtained by calling: (360) 725-1000

Date of intended adoption: Not sooner than August 28, 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](mailto:arc@hca.wa.gov)

Fax: (360) 586-9727

Other:

By (date) August 28, 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](mailto:amber.lougheed@hca.wa.gov)

Other:

By (date) August 23, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: As required by 42 U.S.C. Sec. 1396w, the agency is revising these sections adding a new WAC section to implement an asset verification program to determine or redetermine the eligibility of an individual for Washington apple health.

**Reasons supporting proposal:** See purpose

**Statutory authority for adoption:** RCW 41.05.021, 41.05.160, 42 U.S.C. Sec. 1396w

**Statute being implemented:** RCW 41.05.021, 41.05.160

**Is rule necessary because of a:**

Federal Law?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

If yes, CITATION: 42 U.S.C. Sec. 1396w

**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:	Michael Williams	PO Box 42716, Olympia WA 98504-2716	(360) 725-1346
Implementation:	Mark Westenhaver	PO Box 45534, Olympia WA 98504-2716	(360) 725-1324
Enforcement:	Mark Westenhaver`	PO Box 45534, Olympia WA 98504-2716	(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 pertains to clients and therefore 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:** July 24, 2019

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**WAC 182-503-0050 Verification of eligibility factors.** ((For the purposes of this section, "we" refers to the medicaid agency or its designee and "you" refers to the applicant for, or recipient of, health care coverage.))

(1) **General rules.**

(a) We may verify the information we use to determine, redetermine, or terminate your ((Washington)) apple health eligibility.

(b) We verify the eligibility factors listed in WAC 182-503-0505(3).

(c) Before we ask you to provide records to verify an eligibility factor, we use information available from state databases, including data from the department of social and health services and the department of employment security, federal databases, or commercially available databases to verify the eligibility factor.

(d) We may require information from third parties, such as employers, landlords, and insurance companies, to verify an eligibility factor if the information we received:

(i) Cannot be verified through available data sources;

(ii) Did not verify an eligibility factor; or

(iii) Is contradictory, confusing, or outdated.

(e) We do not require you to submit a record unless it is necessary to determine or redetermine your eligibility.

(f) If you can obtain verification within three business days and we determine the verification is sufficient to confirm an eligibility factor, we base our initial eligibility decision upon that record.

(g) If we are unable to verify eligibility as described in (f) of this subsection, then we may consider third-party sources.

(h) If a fee is required to obtain a necessary record, we pay the fee directly to the holder of the record.

(i) We do not deny or delay your application if you failed to provide information to verify an eligibility factor in a particular type or form.

(j) Except for eligibility factors listed in WAC 182-503-0505 (3)(c) and (d), we accept alternative forms of verification. If you give us a reasonable explanation that confirms your eligibility, we may not require additional documentation.

(k) Once we verify an eligibility factor that will not change, we may not require additional verification. Examples include:

(i) U.S. citizenship;

(ii) Family relationships by birth;

(iii) Social Security numbers; and

(iv) Dates of birth, death, marriage, dissolution of marriage, or legal separation.

(1) If we cannot verify your immigration status and you are otherwise eligible for Washington apple health, we approve coverage and give additional time as needed to verify your immigration status.

(2) **Submission timelines.**

(a) We allow at least ten calendar days for you to submit requested information.

(b) If you request more time to provide information, we allow the time requested.

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

(d) We do not deny or terminate your eligibility when we give you more time to provide information.

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

**(3) Notice requirements.**

(a) When we need more information from you to determine your eligibility for ((Washington)) apple health coverage, we send all notices according to the requirements of WAC 182-518-0015.

(b) If we cannot determine you are eligible, we send you a denial or termination notice including information on when we reconsider a denied application under WAC 182-503-0080.

(4) **Equal access and limited-English proficiency services.** If you are eligible for equal access services under WAC 182-503-0120 or limited-English proficiency services under WAC 182-503-0110, we provide legally sufficient support services.

(5) **Eligibility factors for nonmodified adjusted gross income (MAGI)-based programs.** If you apply for a non-MAGI program under WAC 182-503-0510(3), we verify the factors in WAC 182-503-0505(3). In addition, we verify:

(a) Household composition, if spousal or dependent deeming under chapter 182-512 WAC or spousal or dependent allowance under chapters 182-513 and 182-515 WAC applies;

(b) Income and income deductions;

(c) Resources, including:

(i) Trusts, annuities, ((and)) life estates, and promissory notes under chapter ((s 182-512, 182-513, and)) 182-516 WAC;

(ii) Real property transactions; and

(iii) Financial records, as defined in WAC 182-503-0055, held by financial institutions.

(d) Medical expenses required to meet any spenddown liability under WAC 182-519-0110;

(e) All post-eligibility deductions used to determine cost of care for clients eligible for long-term services and supports under chapters 182-513 and 182-515 WAC;

(f) Transfers of assets under chapter 182-513 WAC and WAC 182-503-0055 when the program is subject to transfer of assets limitations;

(g) Shelter costs for long-term care cases where spousal and dependent allowances apply;

(h) Blindness or disability, if you claim either; and

(i) Social Security number for a community spouse if needed when you apply for long-term care.

**(6) Verification for MAGI-based programs.**

(a) After we approve your coverage based on your self-attestation, we may conduct a post-eligibility review to verify your self-attested information.

(b) When conducting a post-eligibility review, we attempt to verify eligibility factors using your self-attested information available to us through state, federal, and commercially available data sources, or other third parties, before requiring you to provide information.

(c) You may be required to provide additional information if:

(i) We cannot verify an eligibility factor through other data sources listed in subsection (b) of this section; or

(ii) The information received from the data source is not reasonably compatible with your self-attestation.

(7) **Reapplication following post-eligibility review.** If your eligibility for MAGI-based ((Washington)) apple health terminates because

of a post-eligibility review and you reapply, we may request verification of eligibility factors prior to determining eligibility.

NEW SECTION

**WAC 182-503-0055 Asset verification system.** (1) This rule implements the asset verification system (AVS) outlined in section 1940 of the Social Security Act.

(2) This rule applies to the programs described in WAC 182-503-0510 (which includes all applications and renewals for any client and any financially responsible person for such programs), subject to:

(a) The disclosure of resources, as defined in WAC 182-512-0200, to determine eligibility; or

(b) Provisions related to the transfer of assets, as described in WAC 182-513-1363.

(3) For the purposes of this section:

(a) "Financial institution" means the same as defined in section 1101 of the Right to Financial Privacy Act, and may include, but is not limited to:

(i) Banks; or

(ii) Credit unions.

(b) "Financial record" means any record held by a financial institution pertaining to a customer's relationship with the financial institution; and

(c) "Financially responsible person" means a person who is financially responsible as described in WAC 182-506-0015.

(4) You and any other financially responsible people must provide authorization for us to obtain any financial record held by a financial institution.

(5) The authorization, provided under subsection (4) of this section, will remain in effect until one of the following occurs:

(a) Your application for apple health is denied;

(b) Your eligibility for apple health is terminated; or

(c) You revoke your authorization in a written notification to us.

(6) We will:

(a) Use the authorization provided under subsection (4) of this section to electronically verify your financial records and those of any other financially responsible person to determine or renew your eligibility for apple health; or

(b) Inform you in writing at the time of application and renewal that we will obtain and use information available through AVS to determine your eligibility for apple health.

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

**WAC 182-503-0080 Washington apple health—Application denials and withdrawals.** (1) We follow the rules about notices and letters in

chapter 182-518 WAC. We follow the rules about timelines in WAC 182-503-0060.

(2) We deny your application for (~~Washington~~) apple health (~~(WAH)~~) coverage when:

(a) You tell us either orally or in writing to withdraw your request for coverage; or

(b) Based on all information we have received from you and other sources within the time frames stated in WAC 182-503-0060, including any extra time given at your request or to accommodate a disability or limited-English proficiency:

(i) We are unable to determine that you are eligible; or

(ii) We determine that you are not eligible.

(c) You are subject to asset verification and refuse to provide authorization as described in WAC 182-503-0055.

(3) We send you a written notice explaining why we denied your application (per chapter 182-518 WAC).

(4) We reconsider our decision to deny your (~~(WAH)~~) apple health coverage without a new application from you when:

(a) We receive the information that we need to decide if you are eligible within thirty days of the date on the denial notice; (~~(or)~~)

(b) You give us authorization to verify your assets as described in WAC 182-503-0055 within thirty days of the date on the denial notice;

(c) You request a hearing within ninety days of the date on the denial letter and an administrative law judge (ALJ) or HCA review judge decides our denial was wrong (per chapter 182-526 WAC).

(5) If you disagree with our decision, you can ask for a hearing. If we denied your application because we (~~don't~~) do not have enough information, the ALJ will consider the information we already have and (~~anymore~~) any more information you give us. The ALJ does not consider the previous absence of information or failure to respond in determining if you are eligible.