



# 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: December 02, 2019

TIME: 12:28 PM

WSR 19-24-075

Agency: Health Care Authority

Original Notice

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

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

Preproposal Statement of Inquiry was filed as WSR 19-20-080 ; 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)

182-513-1205, Determining eligibility for noninstitutional coverage in an alternate living facility (ALF)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 7, 2020	10:00 AM	Health Care Authority Cherry Street Plaza <b>Sue Crystal Conf Room 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 January 8, 2020 (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) January 7, 2020

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) December 20, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WAC 182-513-1205 to change "department-contracted" to "medicaid-contracted" when referring to alternative living facilities.

**Reasons supporting proposal:** See Purpose

**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?  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:	Jason Crabbe	PO Box 42716, Olympia WA 98504-2716	360-725-9563
Implementation:	Steve Kozak	PO Box 45534, Olympia WA 98504-5534	360-725-1343
Enforcement:	Steve Kozak	PO Box 45534, Olympia WA 98504-5534	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)(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 changes to the proposed rules apply to clients, so they do 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:** December 2, 2019

**Name:** Wendy Barcus

**Title:** HCA Rules Coordinator

**Signature:**



**WAC 182-513-1205 Determining eligibility for noninstitutional coverage in an alternate living facility (ALF).** (1) This section describes the eligibility determination for noninstitutional coverage for a client who lives in (~~(a department contracted)~~) an agency-contracted alternate living facility (ALF) defined under WAC 182-513-1100.

(2) The eligibility criteria for noninstitutional Washington apple health (medicaid) coverage in an ALF follows SSI-related rules under WAC 182-512-0050 through 182-512-0960, with the exception of the higher income standard under subsection (3) of this section.

(3) A client is eligible for noninstitutional coverage under the categorically needy (CN) program if the client's monthly income after allowable exclusions under chapter 182-512 WAC:

(a) Does not exceed the special income level (SIL) defined under WAC 182-513-1100; and

(b) Is less than or equal to the client's assessed state rate at (~~(a department contracted)~~) an agency-contracted facility. To determine the CN standard:  $((y \times 31) + \$38.84)$ , where "y" is the state daily rate. \$38.84 is based on the cash payment standard for a client living in an ALF setting under WAC 388-478-0006.

(4) A client is eligible for noninstitutional coverage under the medically needy (MN) program if the client's monthly income after allowable exclusions under chapter 182-512 WAC is less than or equal to the client's private rate at (~~(a department contracted)~~) an agency-contracted facility. To determine the MN standard:  $((z \times 31) + \$38.84)$ , where "z" is the facility's private daily rate. To determine MN spenddown liability, see chapter 182-519 WAC.

(5) For both CN and MN coverage, a client's countable resources cannot exceed the standard under WAC 182-512-0010.

(6) The agency or the agency's designee approves CN noninstitutional coverage for twelve months.

(7) The agency or the agency's designee approves MN noninstitutional coverage for a period of months described in WAC 182-504-0020 for an SSI-related client, provided the client satisfies any spenddown liability under chapter 182-519 WAC.

(8) Clients who receive medicaid personal care (MPC) or community first choice (CFC) pay all of their income to the ALF except a personal needs allowance under WAC 182-513-1105.

(9) A client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to the payment under this subsection.