



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 30, 2023

TIME: 12:32 PM

WSR 23-08-046

Agency: Health Care Authority

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 23-05-060 ; 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) 182-512-0500, SSI-related medical – Burial funds, contracts and spaces excluded as resources

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 9, 2023	10:00 AM	The Health Care Authority holds public hearings virtually without a physical meeting place.	To attend the virtual public hearing, you must register in advance: https://us02web.zoom.us/webinar/register/WN_hBvwLAwGQNaCbhfRKR7ciw If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of intended adoption: Not sooner than May 10, 2023 (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) May 9, 2023, by 11:59 PM

Assistance for persons with disabilities:

Contact Johanna Larson

Phone: 360-725-1349

Fax: 360-586-9727

TTY: Telecommunication Relay Services (TRS): 711

Email: Johanna.larson@hca.wa.gov

Other:

By (date) April 28, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending WAC 182-512-0500 to exclude from the calculation of available resources fully and partially paid burial space purchase agreements. The agency is making additional, nonsubstantive changes so that the rule is easier to understand and apply.

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: None

Type of proponent: <input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental Name of proponent: (person or organization) Health Care Authority			
Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Brian Jensen	PO Box 42716, Olympia, WA 98504-2716	360-725-0815
Implementation:	Paige Lewis	PO Box 42722, Olympia, WA 98504-2722	360-725-0757
Enforcement:	Paige Lewis	PO Box 42722, Olympia, WA 98504-2722	360-725-0757
Is a school district fiscal impact statement required under RCW 28A.305.135?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, insert statement here: <div style="margin-left: 40px;"> The public may obtain a copy of the school district fiscal impact statement by contacting: Name: Address: Phone: Fax: TTY: Email: Other: </div>			
Is a cost-benefit analysis required under RCW 34.05.328? <input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: <div style="margin-left: 40px;"> Name: Address: Phone: Fax: TTY: Email: Other: </div> <input checked="" type="checkbox"/> 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 and Small Business Economic Impact Statement Note: The Governor's Office for Regulatory Innovation and Assistance (ORIA) provides support in completing this part.			
(1) Identification of exemptions: This rule proposal, or portions of the proposal, may be exempt from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). For additional information on exemptions, consult the exemption guide published by ORIA . Please check the box for any applicable exemption(s): <input type="checkbox"/> 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: <input type="checkbox"/> 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. <input type="checkbox"/> 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:
- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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\(4\)](#) (does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: The proposed rule pertains to client program eligibility and does not impose costs on businesses.

(2) Scope of exemptions: *Check one.*

- ☒ The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- ☐ The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- ☐ The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- ☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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: March 30, 2023

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-512-0500 SSI-related medical—Burial funds, contracts and spaces excluded as resources. (1) For the purposes of this section, burial funds are funds set aside and clearly designated solely for burial and related expenses, and kept separate from all other resources not intended for burial. These include:

- (a) Revocable burial contracts;
- (b) Revocable burial trusts; or
- (c) ~~((Installment contracts for purchase of a burial space on which payments are still owing;~~
- ~~(d)))~~ Other revocable burial arrangements. The designation is effective the first day of the month in which the person intended the funds to be set aside for burial.

(2) ~~((The following))~~ Burial funds in a revocable burial contract, burial trust, cash accounts, or other financial instruments with a definite cash value are excluded as resources for the person and ~~((his or her))~~ their spouse, up to ~~((fifteen hundred dollars))~~ \$1,500 each, when set aside solely for ~~((the expenses of))~~ burial or cremation and ~~((expenses))~~ related ~~((to the burial or cremation, and the funds are either:~~

~~(a) An installment contract for purchase of a burial space that is not yet paid in full; or~~

~~(b) In a revocable burial contract, burial trust, cash accounts, or other financial instrument with a definite cash value))~~ expenses.

(3) Interest earned in burial funds and appreciation in the value of excluded burial arrangements in subsection (2) ~~((a) and (b)))~~ of this section are excluded from resources and are not counted as income if left to accumulate and become part of the separate burial fund.

(4) An irrevocable burial account, burial trust, or other irrevocable burial arrangement, set aside solely for burial and related expenses, is not considered a resource. To be excluded, the amount set aside must be reasonably related to the anticipated death-related expenses.

(5) The ~~((fifteen hundred dollar))~~ \$1,500 exclusion for burial funds described in subsection (2) of this section is reduced by:

(a) The face value of life insurance with CSV excluded in WAC 182-512-0450; and

(b) Amounts ~~((in an irrevocable burial trust, or other irrevocable arrangement available to meet burial expenses, or burial space purchase agreement installment contracts on which money is still owing. If these reductions bring the balance of the available exclusion to zero, no additional funds can be excluded as burial funds.~~

~~(5) An irrevocable burial account, burial trust, or other irrevocable burial arrangement, set aside solely for burial and related expenses is not considered a resource. The amount set aside must be reasonably related to the anticipated death-related expenses in order to be excluded))~~ that meet the requirements of subsection (4) of this section.

(6) A person's burial funds are no longer excluded when they are mixed with other resources that are not related to burial.

(7) When excluded burial funds are spent for other purposes, the spent amount is added to other countable resources and any amount exceeding the resource limit is considered available income on the first

of the month it is used. The amount remaining in the burial fund remains excluded.

(8) Burial space and accessories for the person and any member of the person's immediate family described in subsection (9) of this section are excluded. Burial space and accessories include:

- (a) Conventional gravesites;
- (b) Crypts, niches, and mausoleums;
- (c) Urns, caskets and other repositories customarily used for the remains of deceased persons;
- (d) Necessary and reasonable improvements to the burial space including, but not limited to:
 - (i) Vaults and burial containers;
 - (ii) Headstones, markers and plaques;
 - (iii) Arrangements for the opening and closing of the gravesite;
- and
- (iv) Contracts for care and maintenance of the gravesite.

(e) A burial space purchase agreement that is ~~((currently paid for and owned by the person is also defined as a burial space. The entire value of the purchase agreement is excluded; as well as any interest accrued, which is left to accumulate as part of the value of the agreement. The value of this agreement does not reduce the amount of burial fund exclusion available to the person))~~ fully or partially paid, and any accrued interest.

(9) Immediate family, for the purposes of subsection (8) of this section includes the person's:

- (a) Spouse;
- (b) Parents and adoptive parents;
- (c) Minor and adult children, including adoptive and stepchildren;
- (d) Siblings (brothers and sisters), including adoptive and step-siblings;
- (e) Spouses of any of the above.

None of the family members listed above, need to be dependent on or living with the person, to be considered immediate family members.