



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: August 02, 2023

TIME: 10:21 AM

WSR 23-16-145

Agency: Health Care Authority

☒ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 22-17-082 ; 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)

182-513-1625 - Tailored supports for older adults (TSOA) – Applications

182-513-1635 Tailored supports for older adults (TSOA) - Income eligibility

182-513-1640 Tailored supports for older adults (TSOA) - Resource eligibility

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 5, 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_04stu61aT4G3VvAU34ihaA 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: September 6, 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) September 5, 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) August 25, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The agency is amending these rules to update application information and to revise the income and resource limits.

Reasons supporting proposal: These revisions provide current application information and allow more people to participate in the TSOA program.

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: ☐ Private ☐ Public ☒ Governmental

Name of proponent: (person or organization) Health Care Authority

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Melinda Froud	PO Box 42716, Olympia, WA 98504-2716	360-725-1408
Implementation:	Paige Lewis	PO Box 45534, Olympia, WA 98504-5534	360-725-0757
Enforcement:	Paige Lewis	PO Box 45534, Olympia, WA 98504-5534	360-725-0757

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 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):

☐ 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:
- | | |
|---|--|
| <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 any 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: August 2, 2023

Name: Wendy Barcus

Title: HCA Rules Coordinator

Signature:



WAC 182-513-1625 Tailored supports for older adults (TSOA)—Applications. (1) Applications for tailored supports for older adults (TSOA) are submitted:

(a) Online at Washington Connection at www.washingtonconnection.org;

(b) By sending a completed HCA ((18-008)) 18-005 application for TSOA form to P.O. Box 45826, Olympia, WA 98605;

(c) By faxing a completed HCA ((18-008)) 18-005 application for TSOA form to 1-855-635-8305;

(d) By contacting the local area agency on aging (AAA) office at 1-855-567-0252; or

(e) By contacting the local home and community services (HCS) office. To find the local HCS office, see ((www.altsa.dshs.wa.gov/Resources/clickmap.htm)) <https://www.dshs.wa.gov/AL TSA/resources>.

(2) Help filing an application:

(a) The medicaid agency or the agency's designee provides help with the application or renewal process in a manner that is accessible to people with disabilities, limitations, or other impairments as described in WAC 182-503-0120 and to those who are limited-English proficient as described in WAC 182-503-0110;

(b) For help filing an application, a person may:

(i) Contact a local AAA office;

(ii) Contact a local HCS office; or

(iii) Have an authorized representative apply on the person's behalf.

(3) The following people can apply for the TSOA program:

(a) The applicant (the person receiving care);

(b) The applicant's spouse;

(c) The applicant's caregiver (person providing in-home caregiver services);

(d) A legal guardian; or

(e) An authorized representative, as defined in WAC 182-500-0010.

(4) A phone interview is required to establish TSOA financial eligibility, but may be waived if the applicant is unable to comply:

(a) Due to the applicant's medical condition; and

(b) Because the applicant does not have another person that is able to conduct the interview on the applicant's behalf.

(5) The agency or the agency's designee processes TSOA applications using the same timelines under WAC 182-503-0060.

(6) TSOA begins on the date the person is determined presumptively eligible for TSOA under WAC 182-513-1620, or on the date all eligibility requirements are established if the person is not found presumptively eligible.

(7) When the person withdraws an application for TSOA, or is determined ineligible for TSOA services, the agency or the agency's designee denies the application under WAC 182-503-0080.

AMENDATORY SECTION (Amending WSR 17-12-019, filed 5/30/17, effective 7/1/17)

WAC 182-513-1635 Tailored supports for older adults (TSOA)—Income eligibility. (1) To determine income eligibility for the tailored supports for older adults (TSOA) program, the medicaid agency or the agency's designee uses the following rules depending on whether the person is single or married.

(2) If the TSOA applicant is single, the agency or the agency's designee:

(a) Determines available income under WAC 182-513-1325;

(b) Excludes income under WAC 182-513-1340; and

(c) Compares remaining gross nonexcluded income to ~~((the special income level (SIL)))~~ 400 percent of the federal benefit rate (FBR) for the supplemental security income (SSI) cash grant program. To be eligible, a person's gross income must be equal to or less than ~~((the SIL (three hundred percent)))~~ 400 percent of the ((federal benefit rate (FBR))) FBR.

(3) If the TSOA applicant is married, the agency or the agency's designee:

(a) Determines available income under WAC 182-513-1330 with the exception of subsections (5) and (6) of that section;

(b) Excludes income under WAC 182-513-1340; and

(c) Compares the applicant's remaining gross nonexcluded income to ~~((the SIL))~~ 400 percent of the FBR. To be eligible, a person's gross income must be equal to or less than ~~((the SIL (three hundred percent of the FBR)))~~ 400 percent of the FBR.

(4) The FBR changes annually on January 1st.

(5) The current TSOA income standard is found on the Washington apple health income and resource standards chart, institutional standards section; see www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources.

AMENDATORY SECTION (Amending WSR 17-12-019, filed 5/30/17, effective 7/1/17)

WAC 182-513-1640 Tailored supports for older adults (TSOA)—Resource eligibility. (1) The resource standard for a single applicant for tailored supports for older adults (TSOA) is ~~(((\$53,100)))~~ six times the Washington state average monthly private nursing facility rate, as determined by the department of social and health services under chapter 74.46 RCW.

(2) The resource standard for a married couple is ~~(((\$53,100)))~~ six times the Washington state average monthly private nursing facility rate, as determined by the department of social and health services under chapter 74.46 RCW, for the TSOA applicant plus the state spousal resource standard for the spousal impoverishment protections community (SIPC) spouse. The state spousal resource standard may change annually on July 1st. ((The resource standards are found at www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.)

(3) The medicaid agency or the agency's designee uses rules in WAC 182-513-1350 (1), (3) and (4) to determine general eligibility relating to resources, availability of resources, and which resources count.

(4) The TSOA recipient has one year from the date of initial eligibility of TSOA to transfer resources in excess of the TSOA standard to the SIPC spouse.

(5) The resource standard for TSOA changes annually on January 1st based on the current average private nursing facility rate, as determined by the department of social and health services under chapter 74.46 RCW.

(6) The current TSOA standards and the current average private nursing facility rate are found on the Washington apple health income and resource standards chart, institutional standards section; see www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources.