



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: February 26, 2019
TIME: 10:35 AM

WSR 19-06-017

Agency: Health Care Authority

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: To implement a premium assistance program for Pacific Islanders residing in Washington under a compact of free association (COFA).

Citation of rules affected by this order:

- New: Chapter 182-524 WAC
- Repealed:
- Amended:
- Suspended:

Statutory authority for adoption: RCW 41.05.021, 41.05.160, Substitute Senate Bill 5683, 65th Legislature, 2018 Regular Session

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: This emergency is necessary to comply with the requirements in Substitute Senate Bill 5683, which directed the agency to implement a premium assistance program for Pacific Islanders residing in Washington under a compact of free association (COFA). The first open enrollment period for the COFA premium assistance program began November 1, 2018. This emergency continues the emergency rules filed under WSR 18-22-050 on October 11, 2018, which are set to expire. The agency is currently working through the permanent rulemaking process for these rules and has filed Proposed Rule Making under WSR 19-04-006 on January 23, 2019. The agency will hold a Public Hearing on the proposed rules on March 12, 2019.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>6</u>	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended ____ Repealed ____

The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	<u>6</u>	Amended	____	Repealed	____

Date Adopted: February 26, 2019	Signature: 
Name: Wendy Barcus	
Title: HCA Rules Coordinator	

**Chapter 182-524 WAC
COFA ISLANDER HEALTH CARE**

NEW SECTION

WAC 182-524-0100 General. Compact of Free Association (COFA) islander health care is a state-funded program administered by the health care authority (the agency) to pay the monthly premiums and out-of-pocket expenses for silver level qualified health plans for eligible COFA islanders.

For the purpose of this chapter, "our," "us," and "we" refer to the agency or the agency's designee and "you" refers to the applicant for, or recipient of, COFA islander health care.

You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC.

NEW SECTION

WAC 182-524-0200 Definitions. This section defines terms used in this chapter. See chapter 182-500 WAC for additional definitions.

"Advance premium tax credit (APTC)" - A tax credit taken in advance to lower a monthly health insurance payment (or premium).

"COFA islander" - A person who is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

"COFA islander health care" - An agency-administered program that pays the premium and out-of-pocket costs for a silver level qualified health plan for eligible COFA islanders.

"Compact of Free Association (COFA)" - A legal agreement between the government of the United States and the governments of the Federated States of Micronesia (U.S. Pub. L. 108-188); the Republic of the Marshall Islands (U.S. Pub. L. 108-188); and the Republic of Palau (U.S. Pub. L. 99-658).

"Cost-sharing funds" - Agency-provided funds for out-of-pocket costs.

"Out-of-pocket costs" - Copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits covered by the plan and rendered as in-network. Excludes premiums, balance billing amounts for out-of-network providers, and spending for noncovered services.

"Premium cost" - A person's premium for a qualified health plan, minus the amount of the person's advanced premium tax credit.

"Silver level qualified health plan (QHP)" - Silver level indicates the category of a qualified health plan (QHP) offered by the Washington health benefit exchange (HBE). For a definition of QHP, see WAC 182-500-0090.

NEW SECTION

WAC 182-524-0300 Eligibility. In order to be eligible for state-funded COFA islander health care, you must enroll in a silver level qualified health plan (QHP) through the Washington health benefit exchange (HBE) during open enrollment or when you qualify for a special enrollment period as described in 45 C.F.R. 155.410 and 45 C.F.R. 155.420.

(1) You are eligible for state-funded COFA islander health care administered by us no earlier than January 1, 2019, if you:

(a) Are a COFA islander;

(b) Meet the residency requirements as described under WAC 182-524-0400;

(c) Have household income, as defined under 26 C.F.R. 1.36B-1(e), under one hundred thirty-three percent of the federal poverty level (FPL);

(d) Do not qualify for another federal or state medical assistance program as described under chapter 74.09 RCW, which provides minimum essential coverage such as Washington apple health for adults;

(e) Qualify for, and accept, the maximum advance premium tax credit available under 45 C.F.R. 155.305(f); and

(f) Enroll in a silver level QHP.

(2) Eligibility for COFA islander health care is subject to the availability of amounts appropriated for this specific purpose.

(3) You may be disenrolled from COFA islander health care if you:

(a) Do not meet the eligibility criteria under subsection (1) of this section;

(b) Fail to remain enrolled in a silver level QHP; or

(c) Withdraw your application or request a termination of coverage.

(4) You may be disqualified from COFA islander health care if you:

(a) Perform an act, practice, or omission that constitutes fraud, and an insurer rescinds your QHP policy; or

(b) Use your COFA islander health care cost-sharing funds to purchase anything other than out-of-pocket costs.

(5) Your COFA islander health care begins the first day of the month you meet the eligibility requirements as described in subsection (1) of this section.

(6) Your COFA islander health care ends the day your enrollment in a silver level QHP ends or the last day of the month your COFA islander health care eligibility ends, whichever is earlier.

NEW SECTION

WAC 182-524-0400 Residency requirements. (1) This section applies only to residency requirement for COFA islander health care.

(2) A resident is a person who currently lives in Washington and:

(a) Intends to reside here, including people without a fixed address; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(3) You do not need to live in the state for a specific period of time to meet the requirements in subsection (1) of this section.

(4) You can be temporarily out-of-state and remain on COFA islander health care if you:

(a) Intend to return once the purpose of your absence concludes; and

(b) Meet the eligibility requirements as described under WAC 182-524-0300.

NEW SECTION

WAC 182-524-0500 Notice requirements. (1) This section applies only to notices and letters that we send regarding COFA islander health care.

(2) We send you written notices (letters) when we:

(a) Approve you for COFA islander health care;

(b) Deny you for COFA islander health care;

(c) Change or terminate your eligibility from COFA islander health care; and

(d) Ask you for more information.

(3) All written notices we send to you include:

(a) The date of the notice;

(b) Specific contact information for you if you have questions or need help with the notice;

(c) The nature of the action;

(d) The effective date of the action;

(e) The facts and reasons for the action;

(f) Your appeal rights, if an appeal is available; and

(g) Other information required by the state.

(4) If we request information from you, we allow at least ten calendar days for you to submit requested information.

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

(b) We do not deny or terminate your eligibility when we ask you to provide information.

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

(5) We send a written notice to you at least ten days before taking any adverse action. The ten-day notice period starts on the day we send the notice.

(6) We may send a notice fewer than ten days before the date of the action if:

(a) You request the action;

(b) You request termination;

(c) A change in statute, federal regulation, or administrative rule is the sole cause of the action;

(d) You are incarcerated and expect to remain incarcerated at least thirty days;

(e) Mail sent to you is returned without a forwarding address and we do not have a more current address for you;

(f) You move out-of-state;

(g) You move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan;

- (h) You are eligible for medicare;
- (i) You die;
- (j) You begin receiving other state or federal medical assistance, which provides minimum essential coverage; or
- (k) Your silver level QHP is closed.

NEW SECTION

WAC 182-524-0600 Payments. (1) We pay your silver level qualified health plan (QHP) premium costs directly to the QHP carrier unless we determine good cause exists to reimburse you for the premium costs.

(2) We pay your mandatory out-of-pocket costs separate from your premium costs through cost-sharing funds.

(3) Cost-sharing funds are only for your out-of-pocket costs.

(4) We will not pay for, or reimburse you for, costs not considered as out-of-pocket costs or expenses incurred by people not covered under COFA islander health care.

(5) You are responsible for ensuring the services you receive are covered under your QHP and rendered as in-network.

(6) We may stop payments of your silver level QHP premium costs and your cost-sharing funds when you:

(a) Fail to provide verification of payments through us or an agency-contracted vendor;

(b) Fail to respond to a request for information from us or an agency-contracted vendor;

(c) Misuse your cost-sharing funds by:

(i) Purchasing anything not considered an out-of-pocket cost; or

(ii) Allowing another person access to your cost-sharing funds.

(d) Are no longer eligible for COFA islander health care as described under WAC 182-524-0300.

(7) You must follow the requirements of any agency-contracted vendor that provides services enabling you to access your cost-sharing funds.

(8) We monitor payments and cost-sharing transactions under COFA islander health care.